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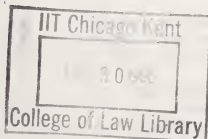
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Secretary of State

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Editor's Note: The Cumulative Index and Sections Affected Index will be
printed on a quarterly basis. The printing schedule for the quarterly and
annual indexes are as follows:

April	19, 1996 - Issue 16: Through	March	31, 1996
July	19, 1996 - Issue 29: Through	June	30, 1996
October	18, 1996 - Issue 42: Through	September	30, 1996
January	17, 1997 - Issue 3: Through	December	31, 1996 (Annual)

INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 1996

Material Rec'd after 12:00 p.m. on:	And before 12:00 p.m. on:	Will be in Issue #:	Published on:	Material Rec'd after 12:00 p.m. on:	And before 12:00 p.m. on:	Will be in Issue #:	Published on:
Dec. 19, 1995	Dec. 26, 1995	1	Jan. 5, 1996	June 25, 1996	July 2, 1996	28	July 12, 1996
Dec. 26, 1995	Jan. 2, 1996	2	Jan. 12, 1996	July 2, 1996	July 9, 1996	29	July 19, 1996
Jan. 2, 1996	Jan. 9, 1996	3	Jan. 19, 1996	July 9, 1996	July 16, 1996	30	July 26, 1996
Jan. 9, 1996	Jan. 16, 1996	4	Jan. 26, 1996	July 16, 1996	July 23, 1996	31	Aug. 2, 1996
Jan. 16, 1996	Jan. 23, 1996	5	Feb. 2, 1996	July 23, 1996	July 30, 1996	32	Aug. 9, 1996
Jan. 23, 1996	Jan. 30, 1996	6	Feb. 9, 1996	July 30, 1996	Aug. 6, 1996	33	Aug. 16, 1996
Jan. 30, 1996	Feb. 6, 1996	7	Feb. 16, 1996	Aug. 6, 1996	Aug. 13, 1996	34	Aug. 23, 1996
Feb. 6, 1996	Feb. 13, 1996	8	Feb. 23, 1996	Aug. 13, 1996	Aug. 20, 1996	35	Aug. 30, 1996
Feb. 13, 1996	Feb. 20, 1996	9	Mar. 1, 1996	Aug. 20, 1996	Aug. 27, 1996	36	Sept. 6, 1996
Feb. 20, 1996	Feb. 27, 1996	10	Mar. 8, 1996	Aug. 27, 1996	Sept. 3, 1996	37	Sept. 13, 1996
Feb. 27, 1996	Mar. 5, 1996	11	Mar. 15, 1996	Sept. 3, 1996	Sept. 10, 1996	38	Sept. 20, 1996
Mar. 5, 1996	Mar. 12, 1996	12	Mar. 22, 1996	Sept. 10, 1996	Sept. 17, 1996	39	Sept. 27, 1996
Mar. 12, 1996	Mar. 19, 1996	13	Mar. 29, 1996	Sept. 17, 1996	Sept. 24, 1996	40	Oct. 4, 1996
Mar. 19, 1996	Mar. 26, 1996	14	Apr. 5, 1996	Sept. 24, 1996	Oct. 1, 1996	41	Oct. 11, 1996
Mar. 26, 1996	Apr. 2, 1996	15	Apr. 12, 1996	Oct. 1, 1996	Oct. 8, 1996	42	Oct. 18, 1996
Apr. 2, 1996	Apr. 9, 1996	16	Apr. 19, 1996	Oct. 8, 1996	Oct. 15, 1996	43	Oct. 25, 1996
Apr. 9, 1996	Apr. 16, 1996	17	Apr. 26, 1996	Oct. 15, 1996	Oct. 22, 1996	44	Nov. 1, 1996
Apr. 16, 1996	Apr. 23, 1996	18	May 3, 1996	Oct. 22, 1996	Oct. 29, 1996	45	Nov. 8, 1996
Apr. 23, 1996	Apr. 30, 1996	19	May 10, 1996	Oct. 29, 1996	Nov. 4, 1996 (Mon.)	46	Nov. 15, 1996
Apr. 30, 1996	May 7, 1996	20	May 17, 1996	Nov. 4, 1996	Nov. 12, 1996	47	Nov. 22, 1996
May 7, 1996	May 14, 1996	21	May 24, 1996	Nov. 12, 1996	Nov. 19, 1996	48	Dec. 2, 1996 (Mon.)
May 14, 1996	May 21, 1996	22	May 31, 1996	Nov. 19, 1996	Nov. 26, 1996	49	Dec. 6, 1996
May 21, 1996	May 28, 1996	23	June 7, 1996	Nov. 26, 1996	Dec. 3, 1996	50	Dec. 13, 1996
May 28, 1996	June 4, 1996	24	June 14, 1996	Dec. 3, 1996	Dec. 10, 1996	51	Dec. 20, 1996
June 4, 1996	June 11, 1996	25	June 21, 1996	Dec. 10, 1996	Dec. 17, 1996	52	Dec. 27, 1996
June 11, 1996	June 18, 1996	26	June 28, 1996	Dec. 17, 1996	Dec. 23, 1996 (Mon.)	1	Jan. 3, 1997
June 18, 1996	June 25, 1996	27	July 5, 1996	Dec. 23, 1996	Dec. 31, 1996	2	Jan. 10, 1997

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Licensing Standards for Foster Family Homes2) Code Citation: 89 Ill. Adm. Code 4023) Section Numbers: Proposed Action:

402.2 Amend

402.3 Amend

402.4 Amend

402.5 Amend

402.6 Amend

402.7 Amend

402.8 Amend

402.9 Amend

402.10 Amend

402.11 Amend

402.12 Amend

402.13 Amend

402.14 Amend

402.15 Amend

4) Statutory Authority: Child Care Act of 1969 [225 ILCS 10]

5) A. Complete Description of the Subjects and Issues Involved: The Department is proposing amendments to its Licensing Standards for Foster Family Homes to bring these standards into compliance with the standards for accreditation published by the Council on Accreditation for Children and Families.

These proposed amendments:

- more clearly define what constitutes reputable and responsible moral character;
- prescribe minimum requirements for in-service training of at least 16 hours per four year license period and condition license renewal on obtaining the required training;
- reduce the maximum capacity in licensed foster family homes to six children, including the foster family's own children under age 18 and all other children under age 18 receiving full-time care;
- allow no more than four children under age six and no more than two children under age two unless the foster family is accommodating a sibling group on a temporary basis;
- provide for expanded capacity licenses to be issued which allow foster families to care for eight children under age 18 if it allows siblings from one or more sibling groups to be placed together, minor parents to have their own children reside with them in foster care, or enables a foster family to provide respite care services for more than two weeks per year, and
- allow for a maximum of eight children under age 18 in order to effect an adoptive placement. The Director of the Department may waive this maximum of eight children at his discretion, but only to effect an adoptive placement.

The proposed amendments also require a review of currently licensed foster family homes with more than six children to determine the suitability of the current placement. Children will be moved to another setting only if there are concerns about the foster family's ability to provide

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appropriate care.

Finally, the proposed amendments require that foster family homes which accept children under age ten or who are developmentally disabled must maintain a hot water temperature from all showers, bathtubs, and faucets of not more than 120° Fahrenheit. This was added at the recommendation of the DCFS-Office of Inspector General.

6) Will these proposed amendments replace an emergency rule currently in effect? No7) Does this rulemaking contain an automatic repeal date? No8) Does this rulemaking contain incorporations by reference? No9) Are there any proposed amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
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402.2 Amend 20 Ill. Reg. 5221, March 1, 1996

402.4 Amend 20 Ill. Reg. 5221, March 1, 1996

402.6 Amend 20 Ill. Reg. 5221, March 1, 1996

402.7 Amend 20 Ill. Reg. 5221, March 1, 1996

402.12 Amend 20 Ill. Reg. 5221, March 1, 1996

402.13 Amend 20 Ill. Reg. 5221, March 1, 1996

402.14 Amend 20 Ill. Reg. 5221, March 1, 1996

402.15 Amend 20 Ill. Reg. 5221, March 1, 1996

10) Statement of Statewide Policy Objectives: These rules do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jacqueline Nottingham, Chief

Office of Rules and Procedures

Department of Children and Family Services

406 East Monroe, Station #222

Springfield, IL 62701-1498

(217) 524-1983

TTY: (217) 524-3715

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

12) Initial Regulatory Flexibility Analysis: These rules do not affect small

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businesses.

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The need for this rulemaking was not anticipated when the Department last filed regulatory agendas.

The full text of the proposed rules begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 402

LICENSING STANDARDS FOR FOSTER FAMILY HOMES

Section	Purpose
402.1	Definitions
402.2	Effective Date of Standards (Repealed)
402.3	Application for License
402.4	Provisions Pertaining to Permits
402.5	General Requirements for the Foster Home
402.6	Requirements for Sleeping Arrangements
402.7	Nutrition and Meals
402.8	Business and Employment of Foster Family
402.9	Qualifications of Foster Parents
402.10	Background Inquiry
402.11	Health of Foster Family
402.12	Number and Ages of Children Served
402.13	Meeting Basic Needs of Children
402.14	Health Care of Children
402.15	Religion
402.16	Recreation and Leisure Time
402.17	Education
402.18	Discipline of Children
402.19	Emergency Care of Children
402.20	Release of Children
402.21	Confidentiality of Information
402.22	Required Written Consents
402.23	Records to be Maintained
402.24	Licensing Supervision
402.25	Adoptive Homes
402.26	Severability of This Part
402.27	
402.28	
402.29	

APPENDIX A Criminal Convictions Which Prevent Licensure

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10].

SOURCE: Adopted and codified at 5 Ill. Reg. 9548, effective October 1, 1981; emergency amendment at 6 Ill. Reg. 15580, effective December 15, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 3439, effective April 4, 1983; amended at 7 Ill. Reg. 13858, effective November 1, 1983; amended at 8 Ill. Reg. 23197, effective December 3, 1984; amended at 11 Ill. Reg. 4292, effective

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March 1, 1987; emergency amendment at 16 Ill. Reg. 11879, effective July 13, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 267, effective December 21, 1992; emergency amendment at 18 Ill. Reg. 8481, effective May 20, 1994, for a maximum of 150 days; emergency expired on October 17, 1994; amended at 19 Ill. Reg. 1801, effective February 1, 1995; amended at 19 Ill. Reg. 9463, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10743, effective July 1, 1995, for a maximum of 150 days; emergency expired November 27, 1995; amended at 20 Ill. Reg. 1589, effective January 10, 1996; emergency amendment at 20 Ill. Reg. 3954, effective February 16, 1996, for a maximum of 150 days; emergency expired July 15, 1996; amended at 21 Ill. Reg. _____, effective _____.

Section 402.2 Definitions

"Child" means any person under 18 years of age. [225 ILCS 10/2.01]
 "Child" means any person under 18 years of age.

"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. Child care facility includes a relative who is licensed as a foster family home pursuant to Section 4 of the Child Care Act of 1969. [225 ILCS 10/2.05]

"Classifiable fingerprints" means fingerprints have been obtained through an electronic or ink printing process which were determined to provide sufficiently clear impressions to identify the individual from whom the prints were obtained.

"Common parentage" means having the same biological or adoptive father, the same biological or adoptive mother, or the same biological or adoptive father and mother.

"Complete application for foster family home license" means a completed written application form; written authorization by the applicant and all adult members of the household to conduct a criminal background investigation; medical evidence in the form of a medical and dental history, on forms prescribed by the Department, that the applicant and all adult members of the household are free from communicable diseases or physical mental conditions that affect their ability to provide care for the child or children; the names and addresses of at least 3 persons not related to the applicant who can attest to the applicant's moral character; and fingerprints submitted by the applicant and all adult members of the applicant's household. [225 ILCS 10/4]

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"Department" means the Illinois Department of Children and Family Services. [225 ILCS 10/2.02] "Department" means the Department of Children and Family Services.

"Expanded capacity license provision" means the foster family home has been issued a license from the Department authorizing the foster family to accept more than six children for care (including the foster family's own children under age 18 and all other children under age 18 receiving full-time care) as permitted in Section 402.15(c) (for foster care placements) or 402.15(e) (for adoptive placements).

"Foster family home" means a facility for child care in residences of families who receive no more than 8 children unrelated or related to them, unless all the children are of common parentage, or residences of relatives who receive no more than 8 related or unrelated children placed by the Department, unless the children are of common parentage, for the purpose of providing family care and training for the children on a full-time basis, except the Director of Children and Family Services, pursuant to Department regulations, may waive the limit of 8 children unrelated to an adoptive family for good cause to facilitate an adoptive placement. The family's or relative's own children, under 18 years of age, shall be included in determining the maximum number of children served. [225 ILCS 10/2.17] The Department requires foster family homes to receive an expanded capacity license allowing them to receive more than six children, including their own children under age 18 and all other children under the age of 18 receiving full-time care.

"Full-time care" means the child is a resident of the household, whether on a temporary, emergency, or permanent basis, and is receiving family care usually provided by a parent or guardian.

"In-service training" means training approved by the Department of Children and Family Services to licensed foster parents who currently are providing care to foster children.

"LEADS" means the Law Enforcement Agencies Agency Data System.

"License" means a document issued by the Department of Children and Family Services which authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act.

"Licensee" means those individuals, agencies, or organizations who hold a license or permit issued by the Department of Children and Family Services.

"Licensing applicant" means those individuals, agencies, or

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organizations who applied for a license from the Department of Children and Family Services.

"Licensing representative" means those Department staff or other persons authorized under the Child Care Act to examine facilities for license.

"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority which is punishable solely by fines as a petty offense. (625 ILCS 5/6-601) "Minor traffic violation" as used in this part means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority which resulted in a fine of \$100.00 or less without other penalty such as license suspension or revocation, probation, jail sentence or community service work.

"Permit" means a one-time only document issued by the Department of Children and Family Services for a two month period to allow the individual(s) to become eligible for an initial foster family home a license.

"Petty offense" means any offense for which a sentence to a fine only is provided. [730 ILCS 5/5-1-17]

"Relative," for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

- is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, great-uncle, or great-aunt, or
- is the spouse of such a relative, or
- is the child's step-father, step-mother, or adult step-brother or step-sister.

Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. (20 ILCS 505/7(b))

"Reputable character" means there is satisfactory evidence that the moral character of the applicant is trustworthy and there is no evidence to the contrary.

"Respite foster care" means temporary, full-time care in a licensed foster family home, group home, or child care institution, or in a license exempt relative home, when such temporary, full-time care is provided to foster children placed with a licensed foster family.

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Respite foster care is provided to foster children in order to give the full-time foster parents a rest from caregiving responsibilities and to prevent placement disruption.

"Responsible" means trustworthy performance of assigned duties which serves the best interests of the foster children as evidenced by established child welfare standards, State and Federal law, and the rules of the Illinois Department of Children and Family Services.

"Supervising agency", for the purpose of this part, means a licensed child welfare agency, a license-exempt agency, or the Department of Children and Family Services

"Training approved by the Department" means the Child Welfare Training Institute for the Department of Children and Family Services has approved in writing the content of training for in-service or pre-service training credits.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 402.5 Application for Renewal of License

- a) Application forms for license renewal shall be mailed to foster parent licensees by the supervising agency three months prior to the expiration date of the license; the completed application shall be submitted to the supervising agency no later than 30 days from the date mailed to licensee(s).
 - c) Upon receipt of the application for license renewal, the supervising agency shall conduct a license study in order to determine that the foster home continues to meet licensing standards. The licensing study shall be in writing and shall be reviewed and signed by the supervisor and signed by the worker performing the study. When a licensee has made timely and sufficient application for renewal of a license, and the Department fails to render a decision on the application prior to the expiration date of the license, the existing license shall continue in full force and effect for up-to-30 days until the final Department decision has been made. The Department may further extend the period in which such a decision must be made in individual cases for up-to 30 days if good cause is shown. Good cause includes but is not limited to shortages of staff.
- (Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 402.7 Provisions Pertaining to the License

- a) A foster family home license is valid for four years unless revoked by

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- the Department or voluntarily given up by the licensee.
- b) The number of children cared for in the foster family home shall not exceed the license capacity and must conform with the requirements for the number and ages of children specified on the license who may reside in a foster-family home.
 - c) The foster parents' biological and adopted children under 18 years of age and all other children under 18 years of age receiving full-time care shall be counted when determining license capacity.
 - d) The license shall not be transferred to another person.
 - e) The license shall not be valid for a name or an address other than the name and address on the license.
 - f) A current license shall be available in the foster home at all times.
 - g) There shall be no fee or charge for the license.
 - h) The foster family shall adhere to the provisions or restrictions specified on the license in accordance with these rules.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 402.8 General Requirements for the Foster Home

- a) The foster home shall be clean, well ventilated, free from observable hazards, properly lighted and heated, and free of fire hazards.
- b) The water supply of the foster family home shall comply with the requirements of the local and state health departments. If the foster family home accepts children under age ten or who are developmentally disabled, the maximum hot water temperature from all showers, bathtubs, and faucets shall be no more than 120° Fahrenheit. If well water is used, a copy of the Inspection Report and Compliance with Regulations shall be on file with the supervising agency.
- c) Portable space heaters may be used as a supplementary source of heat if they meet safety approval standards (Underwriters Laboratories) and are used in accordance with local and State building and fire codes. Portable space heaters may not be used in rooms where children are sleeping. Portable and fixed space heaters in areas occupied by children shall be separated by fire resistant partitions or barriers to prevent contact with the heater.
- d) Prescription and nonprescription drugs, dangerous household supplies, dangerous tools, weapons, guns and ammunition shall be kept in a safe place. Loaded guns shall be kept in a foster home unless required by law enforcement officers and in accordance with their law enforcement agency's safety procedures.
- e) The foster home shall comply with all requirements of the state laws and municipal codes for household pets. Certificates of inoculation for rabies shall be available for inspection.
- f) The foster home shall have an operating telephone on the premises unless the supervising agency has approved a written plan detailing the immediate and unrestricted access to such an instrument.

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- g) The foster home shall have fire and emergency evacuation plans which are to be discussed and routinely rehearsed with the children.
- h) Adequate closet and dresser space comparable to that provided to the other children of the household shall be provided for each foster child to accommodate personal belongings.
- i) Foster parents shall respect children's rights to privacy while sleeping, toileting and dressing.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 402.12 Qualifications of Foster Family

- a) The licensee(s) shall be either a single person or a man and woman married to each other. Each foster parent shall be willing and able to assume appropriate responsibilities for the child or children received for care.
- b) Foster parents shall be stable, law abiding, responsible, mature individuals, at least 21 years of age.
- c) The capability of the foster parents shall be considered prior to the placement of a foster child. A decision to place shall be based on an assessment of the foster family home which shall consider at least the following:
 - 1) the number, chronological and functional age, and characteristics and needs of the children currently under the care of the foster parents, including their own children under age 18 and all other children under age 18 receiving full-time care;
 - 2) the characteristics, limitations, and responsibilities, including health and mobility of the care-takers;
 - 3) the caregivers' ability to appropriately care for and adequately supervise the children currently in the home, as well as the children under consideration for placement; and
 - 4) the number of foster parents in the home and the availability of a child care assistant.
- d) Foster parents shall have passed the background check required for foster parents and adult members of the household age 13 and older, as required in 89 Ill. Adm. Code 385, Background Checks 9007--Background check-of-Foster-family-Homes-Applicants.
- e) Foster parents shall be able to accept agency supervision.
- f) Foster parents shall adequately supervise children in their care to assure compliance with laws including, but not limited to, criminal laws.
- g) Foster home applicants shall provide the names and addresses of at least three unrelated references who are not related to them who can attest that the applicants are of reputable and responsible to-the-applicant's moral character.
- h) Unless parental rights have been terminated, foster parents shall respect and support a child's ties to his or her biological family and

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shall cooperate with the supervising agency and the service plan for the child and his/her family.

1b) The foster family shall have sufficient financial resources to provide basic necessities for themselves and their own children.

1c) Each foster parent foster-parents shall complete, as a condition of initial licensure, at least six clock hours of training on content approved by the Department.

k) As a condition of license renewal, each licensed foster parent shall complete at least four clock hours of training on content approved by the Department in accordance with the schedule below.

License Renewal Due in Year Clock Hours of Training Required

1997	4.0
1998	8.0
1999	12.0
2000 or thereafter	16.0

1) An expanded capacity license to allow foster homes to serve more than six children (including the foster parent's own children under age 18 and all other children under age 18 receiving full-time care) may be granted if the foster family home meets the requirements of Section 402.15(G). As a provision of retaining the expanded capacity license, foster parents shall complete a total of 9.0 clock hours of training each calendar year, beginning the calendar year the expanded capacity license is issued. Training must be on content approved by the Department. At least 4.0 clock hours of the training shall focus on issues pertinent to the type of expanded capacity care the foster parents are providing (e.g., issues related to siblings, issues related to pregnant and parenting teens, issues related to providing respite care services).

a) A statement that describes how the foster family and the foster family's home comply with the requirements of this Part shall be placed in the permanent foster home record. If the foster family home is not in compliance with any licensing standards, these standards shall be specifically recorded and the plan for achieving compliance shall be outlined. The statement shall be updated to reflect any changes in the status of the foster family or the foster home. All such updates shall be entered within five working days after the change in status.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 402.15 Number and Ages of Children Served

a) General Rule Regarding the Number of Children in a Foster Family Home
The maximum number of children permitted in a foster family home shall

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be six, except as permitted in subsections (c), (d) and (e) of this Section is by—unless all of the foster children are of common parentage—as defined in Section 402.2, or a foster home is granted in accordance with subsection (c) below. This maximum number includes the foster parents' own children under age 18 and all other children under the age of 18 receiving full-time care—cared-for on a full-time basis. When determining how many children a foster family home may accept, the maximum capacity generally shall be reduced to no more than three children when the children have developmental, emotional, behavioral, or medical needs which require specialized care. This maximum may exceed three children only with the approval of the manager of clinical services and the licensing supervisor.

General Rules Regarding Ages of Children in a Foster Family Home

1) Four Children Under Age Six
No more than four children under six years of age, including the foster parent's own children, shall receive full-time care in a foster family home at any one time. When all of the foster children are of common parentage, as defined in Section 402.2, the foster home may be specifically licensed under subsection (c)(3)(A)(iii) of this Section to care for more than four children under six years of age only with the approval of the manager of clinical services and the licensing supervisor.

2) Two Children Under Age Two

No more than two children, including the family's own children, shall be under two years of age unless the foster family home is accommodating a sibling group on a temporary basis.

Expanded Capacity License Provisions for Foster Family Care

1) Foster parents may be specifically licensed to care for more than six children on a full-time basis only if the foster parents are otherwise in compliance with the requirements of this Part and can meet the licensing standards for the additional children. The foster parents must:

A) have been providing foster care for at least four years (as opposed to being licensed, but serving no foster children); and

B) have been approved in writing by each worker who has children currently placed in the foster home as having demonstrated competency in the ages and characteristics of children for whom they are seeking the expanded capacity license provision. All such approvals shall be forwarded to the supervising agency.

2) No more than two of the children cared for under an expanded capacity license may be under two years of age unless the foster family home is accommodating a sibling group on a temporary basis.

3) An expanded capacity license may be issued to allow only the following types of care:

A) Sibling Groups

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- 1) A licensed foster family home may receive an extended capacity license to care for a maximum of eight children (including the foster parent's own children under age 18 and all other children under age 18 receiving full-time care) in order to keep one or more siblings growing together in the foster family home.
- ii) The maximum of no more than four children under age six does not apply when all of the foster children are of common parentage, as defined in Section 402.2, if the clinical services manager and the licensing supervisor have approved in writing a plan which allows for the full-time care of more than four children under age six.
- iii) No expanded capacity license is required to allow overnight visits between siblings.

B) A licensed foster family home may receive an extended capacity license to care for a maximum of eight children (including the foster parent's own children under age 18 and all other children under age 18 receiving full-time care) to allow foster children who are parents to bring their own children with them to live in the foster family home. The extended capacity license is to allow the foster family home to accept more than six children, but does not exempt the home from compliance with the requirements of Section 402.15(b) of this Section, regarding the ages of children in the home.

C) Respite Foster Care

A licensed foster family home may receive an extended capacity license to care for a maximum of eight children (including the foster parent's own children under age 18 and all other children under age 18 receiving full-time care), if the home provides respite foster care for more than two weeks per year. Any children received for respite care shall be counted in the maximum of eight children.

d) Foster Care Placements Made Before the Effective Date of These Amendments

- 1) These amendments are not retroactive in their effect. If more than six children under age 18 are residing in a foster family home as of the effective date of these amendments, the appropriateness of continuing in the foster care placement shall be evaluated by the worker and the supervisor for each child within 60 days after the effective date of this amended Section. The results of the evaluation shall be documented in the child's case record and a copy forwarded to the office of licensing.
- 2) If the worker and supervisor find that the foster children are receiving adequate and appropriate care in the current foster family home and that remaining in the current foster family home

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is in the best interests of the foster children, the foster children may remain in the foster care placement, even if there are more than six children in the home (including the foster parent's own children under age 18 and all other children under age 18 receiving full-time care).

A) Foster parents are not required to obtain an extended capacity license to continue to care for children already placed with them as of the effective date of these amendments, but may not accept additional foster children until the home complies with the capacity requirements of this Part.

B) When the foster children in care as of the effective date of these amendments move to another placement or attain the age of 18, the capacity of the foster home will be reduced until it reaches the maximum of six children, unless the foster parents have applied for and been granted an extended capacity license allowing them to care for eight children (including the foster parent's own children under age 18 and all other children under age 18 receiving full-time care).

3) If the worker and supervisor find that the foster children are not receiving adequate and appropriate care in their current foster family home or that remaining in the current foster family home is not in the best interests of one or more of the foster children, the affected children shall be moved to another appropriate placement. All such moves shall be made in a planned manner after prior notice has been given to the foster parents, as required by 89 Ill. Adm. Code 337, Service Appeals Process.

- b) When determining how many children the foster family home shall serve, children who have special needs due to physical, mental, or emotional disabilities shall be considered at the level at which they function.
- c) The Director of the Department of Children and Family Services or designee shall waive in writing the maximum number of children to effect an adoptive placement provided the following criteria are met:
- 1) a licensed child welfare agency or the Department proposes to place an additional child or children in the home for the purpose of adoption;
 - 2) the child welfare agency or the Department has documented in the child's case record that this home is the most appropriate choice consistent with the best interest of the child or children;
 - 3) the foster family is otherwise in compliance with the licensing requirements of this Part, and could meet standards for the additional child or children; and
 - 4) the foster family has requested in writing that the Director waive the limit of 8 children under the age of 18 so that an additional child or children may be placed in their home for purposes of adoption.
- d) No more than 4 children under the age of 67, including the foster parent(s) own children, shall receive full-time care at any one time.

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No more than 2 children including the family's own children shall be under the age of 21 unless the foster parent is aided by a child care assistant at least 16 years of age unless the foster parent is a supervising agency may place children whose ages do not comply with this subsection in a foster family home when all of the foster children are of common parentage and the supervising agency's approval of the placement is documented in writing. Such approval shall include the names, birth date(s), and the common parent(s) of the foster child(ren).

e) Adoptive Placements

1) Maximum Number of Children
A licensed foster family home may receive an extended capacity license to care for a maximum of eight children (including the foster parent's own children under age 18 and all other children under age 18 receiving full-time care) in order to effect an adoptive placement. The Director of the Department of Children and Family Services may waive in writing the maximum number of eight children to effect an adoptive placement provided the following criteria are met:

- A) a licensed child welfare agency or the Department proposes to place an additional child or children in the home for the purpose of adoption;
- B) a licensed child welfare agency or the Department has documented in the child's case record that this home is the most appropriate choice consistent with the best interests and special needs of the child or children;
- C) the foster family is otherwise in compliance with the licensing requirements of this Part and can meet licensing standards for the additional child or children; and
- D) the foster family has requested in writing that the Director waive the limit of eight children under the age of 18 so that an additional child or children may be placed in their home for purposes of adoption.

2) Ages of Children

The Director of the Department of Children and Family Services or designee may waive in writing the age requirements in subsection (b) of this Section (4), if necessary, to place a child in an adoptive home provided the criteria in subsection (c)(2) of this Section subsections (c)(1) through (4) are met and there are a sufficient number of suitable adult caregivers or child-care assistants to insure that the children receive proper care and supervision.

f) Independent Foster Family Homes A foster child who is the parent of another child placed in the same foster home may serve as a child-care assistant in relation to the care of his or her own child. Child-care assistants shall meet health requirements as specified in Section 409.14.

g) Independent foster homes receive children by independent

arrangement. These homes are not subject to direct and regular supervision by a child welfare agency. These homes shall not be licensed for more than a maximum of four 4- children under age 18 (including the foster parent's own children under age 18 and all other children under age 18 receiving full-time care) unless all of the unrelated children are of common parentage. No more than two 2 of these children, including the family's own children, shall be under the age of 21 unless the foster family is accommodating a sibling group on a temporary basis 2-unless-of-common-parentage.

(Revised) Amended at 21 Ill. Reg. effective

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Relative Home Placement

2) Code Citation: 89 Ill. Adm. Code 335

3) Section Numbers: Proposed Action:
335.100 Amend

4) Statutory Authority: 20 ILCS 505/5

5) A Complete Description of the Subjects and Issues Involved: The amendments extend the effective date of an automatic repealer clause from December 31, 1996 to December 31, 1997. The rule Section allows the Department to claim Federal Financial Participation for relatives who were approved under 89 Ill. Adm. Code 335, which has all been repealed except for this Section, who are seeking licensure as a foster family home.

6) Will these proposed rules replace an emergency rule currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? Yes

8) Do these proposed rules contain incorporations by reference? No

9) Are there any proposed amendments to this Part pending? No

10) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jacqueline Nottingham, Chief
Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe Street, Station 4222
Springfield, Illinois 62701-1498
217/524-1983
TTY: 217/524-3715

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

12) Initial Regulatory Flexibility Analysis: These rules do not affect small businesses.

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13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The need for this rulemaking was not anticipated when the Department last filed its regulatory agendas.

The full text of the proposed amendment begins on page _____ :

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

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NOTICE OF PROPOSED RULES

NOTICE OF PROPOSED RULES

1) Heading of the Part: State Mandates Program2) Code Citation: 53 Ill. Adm. Code 2003) Section Numbers: Proposed Action:

200.10 New Section

200.20 New Section

200.30 New Section

200.40 New Section

200.50 New Section

200.60 New Section

4) Statutory Authority: Implementing and authorized by Section 9 of the State Mandates Act [30 ILCS 805/9] and authorized by Section 46.42 of the Civil Administrative Code of Illinois [20 ILCS 605/46.42].5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking will enable units of local government to file a request for mandate determination from the Department of Commerce and Community Affairs when the General Assembly has made no appropriation for reimbursement.6) Will these amendments replace an emergency amendment currently in effect?
No7) Does this rulemaking contain an automatic repeal date? No8) Do these proposed amendments contain incorporations by reference? No9) Are there any amendments pending on this part? No10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805].11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Ms. Molly Elmore, Manager
Policy Development, Planning and Research
Department of Commerce and Community Affairs
620 East Adams Street, 6th Floor
Springfield, IL 62701
(217) 785-6315
T.D.D. Number: (217) 785-6055

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses and small municipalities affected: Small municipalities will be able to seek a determination of a State mandate from the Department of Commerce and Community Affairs.

B) Reporting, bookkeeping or other procedures required for compliance:
N/A

C) Types of professional skills necessary for compliance: Applicants would already possess the necessary skills for compliance.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: This proposed rulemaking was not anticipated by the Department of Commerce and Community Affairs prior to filing the July 1996 Regulatory Agenda.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED RULES

TITLE 53: INTERGOVERNMENTAL RELATIONS

CHAPTER II: DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

PART 200

STATE MANDATES PROGRAM

Section

200.10 Source of Authority

200.20 Applicability

200.30 Definitions

200.40 Parties to a Claim for Reimbursement or a Request for Determination of Mandate

200.50 Claims for Reimbursement

200.60 Requests for Determination of Mandate

AUTHORITY: Implementing and authorized by Section 9 of the State Mandates Act [30 ILCS 805/9] and authorized by Section 46.42 of the Civil Administrative Code of Illinois [20 ILCS 605/46.42].

SOURCE: Adopted at 21 Ill. Reg. _____, effective _____.

Section 200.10 Source of Authority

a) The Department of Commerce and Community Affairs (Department) is authorized by Section 46.42 of the Civil Administrative Code of Illinois (Part 7) [20 ILCS 605/46.42] to make such rules and regulations as may be necessary to carry out its duties.

b) These rules are promulgated pursuant to the State Mandates Act [30 ILCS 805] in the manner required by the Illinois Administrative Procedure Act [5 ILCS 100].

Section 200.20 Applicability

These rules shall apply to all claims for Reimbursement and Requests for Determination of Mandate filed with the Department by one or more units of local government, as authorized by the State Mandates Act.

Section 200.30 Definitions

"State mandate" means any State-initiated statutory or executive action that requires a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues, excluding any order issued by a court other than any order enforcing such statutory or executive action, or legislation enacted to comply with a federal mandate. State mandates may be reimbursable or nonreimbursable; however, a State mandate is not reimbursable unless the General Assembly has appropriated funds from which a local government may be reimbursed for its costs.

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complying with the State mandate.

Section 200.40 Parties to a Claim for Reimbursement or a Request for Determination of Mandate

Subject to the provisions of Section 200.50 (Claims for Reimbursement) and Section 200.60 (Requests for Determination of Mandate) of this Part, one or more units of local government, other than a school district or community college district, may submit to the Department a Claim for Reimbursement or Request for Determination of Mandate.

Section 200.50 Claims for Reimbursement

a) Within 60 days after the effective date of a new or expanded State mandate, one or more units of local government may submit to the Department a Claim for Reimbursement to recover certain costs associated with the implementation of a State mandate, provided the General Assembly has appropriated funds from which such reimbursement can be made.

b) During the initial fiscal year during which reimbursement is authorized, the one or more units of local government submitting a single Claim for Reimbursement to the Department shall include in the claim an estimate of the costs attributable to complying with the State mandate for the balance of the fiscal year.

c) For the subsequent fiscal years during which reimbursement is authorized, the one or more units of local government submitting a single Claim for Reimbursement to the Department must do so on or before October 1 of each calendar year. Such claim shall include an estimate of the costs attributable to complying with the State mandate throughout the entire fiscal year.

Section 200.60 Requests for Determination of Mandate

In cases in which the General Assembly has not appropriated funds from which units of local government may be reimbursed for costs attributable to a new or expanded State mandate, one or more units of local government may submit to the Department a Request for Determination of Mandate. In response to a Request for Determination of Mandate, the Department shall determine whether the Public Act or executive action which is the subject of the request constitutes a State mandate, and if so, the statewide cost of implementation.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENT

- 1) **Heading of the Part:** Storage, Transportation, Sale and Use of Liquefied Petroleum Gas
- 2) **Code Citation:** 41 Ill. Adm. Code 200
- 3) **Section Numbers:** Proposed Action: Amendment 200.30
- 4) **Statutory Authority:** Section 3 of the Liquefied Petroleum Gas Regulation Act (430 ILCS 5/3)
- 5) **A Complete Description of the Subjects and Issues Involved:** By this Notice of Proposed Amendment, the Office is updating Part 200 to reference the most recently published edition of National Fire Protection Standard #54, "The National Fuel Gas Code", and Standard #501C, "Recreational Vehicles".

The current Section 200.30 references the 1992 edition of NFPA 54 - The National Fuel Gas Code. The NFPA has now published an updated 1996 edition of NFPA 54. Comparison of the two documents reveals only minor changes in content. This part of the amendment is being proposed at the expressed request of the Illinois Propane Gas Association.

In addition to the updated reference to the latest published edition of NFPA 54, grammatical changes have been proposed. The current Section 200.30 refers to the "Standard for the Installation of Gas Appliances and Gas Piping" as well as the "National Fuel Gas Code". Several years ago, the National Fuel Gas Code replaced the previous NFPA document "Standard for the Installation of Gas Appliances and Gas Piping". The wording has, however, remained within Part 200.30.

The amendment also proposed to change the Part 200.30 reference to the most recently published edition of National Fire Protection Association Standard #501C, "Standard on Recreational Vehicles." Similar to NFPA 54, an updated edition of Standard 501C is now published by the NFPA. Also similar to the NFPA update, the update to NFPA 501C contains only minor changes.

The current 200.30 rule also references the entire NFPA 501C standard. The Office of the State Fire Marshal is proposing to modify this reference. NFPA 501C addresses the subject of recreational vehicles in general. The agency believes it is appropriate to reference only the "fuel system and equipment" criteria of NFPA 501C in consideration of the fact that Part 200 rules pertain specifically to liquefied petroleum gas.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No

OFFICE OF THE STATE FIRE MARSHAL

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- 7) Does this rulemaking contain an automatic repeal data? No
- 8) Does this rulemaking contain incorporations by reference? Yes. The amendment updates referenced editions of documents published by the National Fire Protection Association - NFPA Standard #54, the National Fuel Gas Code. (Currently, Section 200.30 references the 1992 edition of NFPA 54. The amendment proposes to update this reference to the most current edition of NFPA 54 - the 1996 edition.)

Also, the amendment updates the reference edition of NFPA Standard #501C, "Recreational Vehicles". (Currently, Section 200.30 references the 1990 edition of NFPA 501C. The amendment updates this reference to the most current edition of NFPA 501C - the 1996 edition.)

- 9) Are there any other proposed rulemakings pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking does not expand a mandate upon local governments, small municipalities or non-profit organizations.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed amendment. Written submissions shall be filed with:

Jack Ahern
Deputy State Fire Marshal
Division of Fire Prevention
Office of the State Fire Marshal
100 W. Randolph Street, Suite 11-800
Chicago, IL 60601
(312) 814-2693

Comments received within 45 days of the date of publication of this Illinois Register will be considered. Comments received after that time will be considered, time permitting.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit organizations affected: Those installing, operating or maintaining gas appliances and/or gas piping in buildings, as well as recreational vehicles.

B) Reporting, bookkeeping or other procedures required for compliance: Compliance with the proposed rule amendments will be determined by inspections conducted by the fire prevention inspectors of the Office of the State Fire Marshal. Compliance is currently determined in this

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manner. The proposed amendments contain no changes to the method of enforcement of the rules, but simply update the referenced National Fire Protection Association standards that are applicable to such work.

- C) Types of professional skills necessary for compliance: The amendments propose no change to the qualifications required to perform work on, or related to, gas appliances or gas piping.

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The amendment is being proposed as the result of publication of updated editions of referenced standards by the National Fire Protection Association. Furthermore, the agency has received a request from the Illinois Propane Gas Association requesting an update of the referenced edition of NFPA 54.

The full text of the Proposed Amendment begins on the next page:

OFFICE OF THE STATE FIRE MARSHAL

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TITLE 41: FIRE PROTECTION
CHAPTER 1: STATE FIRE MARSHAL

PART 200
STORAGE, TRANSPORTATION, SALE, AND USE
OF LIQUEFIED PETROLEUM GAS

Section	
200.5	Introduction
200.10	Storage and Handling of Liquefied Petroleum Gases
200.20	Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants
200.30	Rules For Installation of Gas Appliances And Gas Piping
200.40	Storage and Handling of Liquefied Petroleum Gas
200.50	Installations Must Be In Compliance
200.60	Submission Of Plans
200.70	Applications, Plans and Blueprints Must Be Filed in Triplicate -- What Applications and Drawings Must Show
200.80	Operation of Installation Prohibited Until Final Inspection and Approval
200.90	No Supplier Shall Service Any Installation Not In Compliance With Law
200.100	Personnel Must Be Properly Trained
200.110	No Self Service Permitted
200.120	Interstate Commerce Commission or Department of Transportation Containers (Repealed)
200.160	Cylinder System Installations (Bottled Gas) (Repealed)
200.170	Minimum Safety Requirements for Manifolded American Society of Mechanical Engineers Containers (Repealed)
200.180	Location of Containers (Repealed)
200.190	Abandoned Tanks
200.200	Marking of Tank Trucks and Trailers (Repealed)
200.210	Lighting Requirements on Trucks and Trailers (Repealed)
200.230	Drivers of Trucks and Trailers Must Be Properly Trained (Repealed)
200.240	When Tank Truck May Not Be Left Unattended (Repealed)
200.250	Tank Trucks and Tractors Must Be In Good Repair (Repealed)
200.260	Parking in Congested Areas Prohibited (Repealed)
200.270	Travel in Heavy Traffic Districts To Be Avoided (Repealed)
200.280	Gear Shift Requirements for Loaded Tank Trucks (Repealed)
200.290	Seal-Trailers Loading and Unloading (Repealed)
200.300	Fire Extinguisher Requirements (Repealed)
200.310	Excess Flow Valves Not To Be Tampered With (Repealed)
200.320	When Transportation and Sale Prohibited (Repealed)
200.330	Containers To Be Transported In Upright Position (Repealed)
200.340	Fireworks Prohibited
200.350	Additional Safety Measures Authorized

AUTHORITY: Authorized by and implementing Section 3 of the Liquefied Petroleum Gas Regulation Act [430 ILCS 5/3].

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SOURCE: Rules for the Storage, Transportation, Sale and Use of Liquefied Petroleum Gases, filed October 15, 1971; codified at 5 Ill. Reg. 10697; amended at 8 Ill. Reg. 2467, effective June 1, 1984; amended at 19 Ill. Reg. 11455, effective August 1, 1993; amended at 21 Ill. Reg. _____, effective _____.

Section 200.30 Rules For Installation of Gas Appliances And Gas Piping

Standards for the Installation of gas appliances Gas-Appliances and gas piping Gas-piping as published in the 1996 1992 Edition of Standard NFPA No. 54 by the National Fire Protection Association (National Fuel Gas Code) are mandatory. Standards Standard for fuel systems and equipment in recreational vehicles Recreational-Vehicles as published in the 1996 1994 Edition of Standard NFPA No. 511C 591c by the National Fire Protection Association (Recreational Vehicles) are mandatory.

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Real Estate License Act of 1983

2) Code Citation: 68 Ill. Adm. Code 1450

3) Section Numbers: Proposed Action:
1450.175 Amendment

4) Statutory Authority: Implementing the Real Estate License Act of 1983 [225 ILCS 455] and authorized by Section 9 of the Real Estate License Act of 1983 [225 ILCS 455/9]

5) A Complete Description of the Subjects and Issues Involved: Salespersons and brokers licensed by the Office of Banks and Real Estate (OBRE) under the Real Estate License Act of 1983 are required to fulfill continuing education (CE) requirements as a prerequisite for license renewal. With over 77,000 licensees, monitoring and verifying CE compliance has been difficult, particularly in a comprehensive manner. This rulemaking will enable OBRE to establish an improved system for CE compliance review, based upon upgraded computer capabilities, creation of an in-house database of continuing education records for all licensees, and expanded procedures governing the treatment of licensees in non-compliance. The proposed rules have been approved and recommended by the Illinois Real Estate Education and Administration Board and have been endorsed by the Illinois Association of Realtors.

The CE database will be created from information provided on monthly "graduation reports" submitted by CE course sponsors (currently 67 are licensed by OBRE). The information -- licensee names, course titles and dates, etc. -- is data that sponsors are already required to retain. It is hoped that sponsors will submit data on computer disks, but reports may be submitted on paper as well (a small fee will be charged to offset data entry costs and encourage computerized reporting). There will be an administrative fee for late reporting. Continued failure to report by sponsors could eventually lead to a sponsor's courses being disqualified for continuing education purposes.

The rulemaking also expands upon the procedures applicable to licensees found to be in non-compliance on CE. Such licensees will be given the opportunity to prove that they are in fact in compliance and even given an opportunity to correct deficiencies by taking courses during a 60 day notice period but, failing in that, the licensees will be referred for disciplinary proceedings which could ultimately lead to suspension or revocation of license.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

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- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rule will not affect local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested parties should submit written comments or views concerning the proposed rulemaking to the attention of:

John Arthur, Legislative Liaison
Office of Banks and Real Estate
500 East Monroe, Suite 800
Springfield, Illinois 62701-1509
Telephone: (217) 782-3000

The Agency will consider all written comments it receives in writing within 45 days after the date of publication of this Illinois Register.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Licensees under the Real Estate License Act of 1983.
- B) Reporting, bookkeeping or other procedures required for compliance: Continuing education sponsors will be required to file monthly reports regarding all persons who have successfully completed courses offered by the sponsor during the preceding month.
- C) Types of professional skills necessary for compliance: None.

13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the Proposed Amendment begins on the next page.

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- TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VIII: OFFICE
OF BANKS AND REAL ESTATE
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1450

REAL ESTATE LICENSE ACT OF 1983

SUBPART A: GENERAL RULES

Section

1450.10	Definitions
1450.11	Educational Requirement of Broker Applicant Licensed as an Illinois Real Estate Salesperson (Renumbered)
1450.12	Educational Requirements for a Baccalaureate Degree with a Minor in Coursework in Real Estate (Renumbered)
1450.15	Applications for Salespersons and Brokers Licenses by Examination
1450.17	Sponsor Card
1450.18	Inoperative Salespersons and Brokers Licenses
1450.19	Managing Broker Responsibilities
1450.20	Branch Offices
1450.25	Corporations and Partnerships
1450.30	Special Accounts (Escrow Accounts)
1450.40	Fees
1450.45	Disclosure
1450.50	Agency Disclosure Pursuant to Section 18.2 of the Act
1450.55	Employment Contracts
1450.60	Listing Agreements
1450.70	Written Agreements
1450.80	Advertising
1450.90	Unlicensed Assistants
1450.95	Discrimination
1450.100	Unworthiness or Incompetence to Act as a Broker or Salesperson
1450.110	Hearings
1450.120	Assumed Name
1450.140	Reciprocal Licensure
1450.150	Rental Finding Services
1450.170	Continuing Education
1450.175	Renewals
1450.180	Granting Variances
1450.185	Procedure to Contest An Automatic Termination
1450.190	Penalties For Criminal Acts
1450.195	Real Estate Recovery Fund
1450.200	

SUBPART B: SCHOOL RULES

Section

OFFICE OF BANKS AND REAL ESTATE

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- 1450.210 Approval of Schools (Repealed)
 1450.215 Home Study/Correspondence Programs
 1450.220 Definition of Class Hour and Credit Hour (Repealed)
 1450.225 Educational Requirement of Broker Applicant Who is a Licensed
 Illinois Real Estate Salesperson (Renumbered)
 1450.230 Illinois Real Estate Salesperson (Renumbered)
 1450.240 Class Attendance Requirements
 1450.250 Requirements for Applicants Under 21 Years of Age (Repealed)
 1450.260 Qualification of Applicants for Reinstatement of License (Repealed)
 1450.270 Educational Requirements for Reinstatement of License (Repealed)
 1450.275 Reciprocity with Test Center
 1450.280 Approval of Schools
 1450.290 Withdrawal of Approval

APPENDIX A Penalties for Criminal Acts (Repealed)

AUTHORITY: Subpart A implementing Sections 9 and 15 of the Real Estate License Act of 1983 [225 ILCS 455/9 and 15], and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)]. Subpart B implementing Sections 4(17) and 11 of the Real Estate License Act of 1983 [225 ILCS 445/4(17) and 11] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Rules and Regulations for the Administration of the Real Estate Brokers and Salesmen License Act (General Rules), effective December 4, 1974; Rules and Regulations for the Administration of the Real Estate Brokers and Salesmen License Act (School Rules), effective July 29, 1974; amended at 3 Ill. Reg. 895, effective February 2, 1979; amended at 4 Ill. Reg. 195, effective August 12, 1980; amended at 5 Ill. Reg. 5343, effective May 6, 1981; amended at 5 Ill. Reg. 8541, effective August 10, 1981; codified at 5 Ill. Reg. 11064; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982; for a maximum of 150 days; emergency amendment at 6 Ill. Reg. 2406, effective February 3, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8221, effective July 1, 1982; amended at 9 Ill. Reg. 341, effective January 3, 1985; transferred from Chapter I, 68 Ill. Reg. 450 (Department of Registration and Education) to Chapter VII, 68 Ill. Reg. 450 (Department of Registration and Education) pursuant to P.A. 85-225, effective January 1, 1988; amended at 12 Ill. Reg. 2977; amended at 12 Ill. Reg. 8036, effective April 26, 1988; amended at 15 Ill. Reg. 10416, effective July 1, 1991; amended at 16 Ill. Reg. 3204, effective February 14, 1992; emergency amendment at 19 Ill. Reg. 12003, effective August 8, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16623, effective December 1, 1995; amended at 20 Ill. Reg. 6492, effective April 30, 1996; recodified from Chapter VII, Department of Professional Regulation to Chapter VIII, Office of Banks and Real Estate, pursuant to PA 89-23 and PA 89-508, at 20 Ill. Reg. 11094; amended at 21 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL RULES

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Section 1450.175 Continuing Education

- a) Continuing Education Hour Requirements
 1) Pursuant to Article 3 of the Act, beginning with the March 31, 1993, renewal of licensure for salespersons and the January 31, 1994, renewal of licensure for brokers, and every renewal thereafter, each licensee who is required to comply with continuing education (CE) shall complete during each biennial period a minimum of 12 hours of CE that is relevant to the practice of real estate as set forth in subsection (b)(3) below ("Advisory Council").
 2) For salespersons, a biennial period is the 24 months preceding March 31 of the year of the renewal. For brokers, a biennial period is the 24 months preceding January 31 of the year of the renewal.
 3) Pursuant to Section 37.1 of the Act, CE requirements apply only to those licensees who obtained initial licensure in Illinois on or after January 1, 1977. Either individuals licensed in Illinois prior to January 1, 1977, either salespersons or brokers, are exempt from the CE requirements. Continuous licensure is not required to be eligible for this section. However, if license holder has been nonactive for a period of 5 years or more, the date of initial licensure, for purposes of this section, shall be the date of licensure. CE is not required for licensees who are exempt from the CE requirements for the first renewal following issuance of either the salesperson or broker license.
 4) A renewal applicant is not required to comply with the CE requirements of either the salesperson or broker license.
 5) Salespersons and brokers licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this section unless they are exempt pursuant to Section 37.1 of the Act or subsections (a)(3) and (4) above.
 6) The Office of Banks and Real Estate shall conduct random audits to verify compliance with this Section.
 b) Approved Continuing Education
 1) CE credit may be earned for verified attendance at or participation in a course which is offered by an approved CE sponsor who meets the requirements set forth in subsection (c) below.
 2) CE credit may also be earned for completion of a self-study course that is offered by an approved sponsor who meets the requirements set forth in subsection (c) below.
 3) Pursuant to Section 37.4 of the Act, the CE requirement shall be satisfied by successful completion of the following:
 A) Mandatory category. A minimum of 6 hours of CE in any one or more of the following mandatory courses:
 i) License law and escrow;
 ii) Anti-trust;

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- iii) Fair housing; and
 - iv) Agency.
- B) Elective category. A maximum of 6 hours of CE in the following elective courses:
- i) Appraisal;
 - ii) Property management;
 - iii) Residential brokerage;
 - iv) Farm property management;
 - v) Rights and duties of sellers, buyers and brokers;
 - vi) Commercial brokerage and leasing;
 - vii) Financing; and
 - viii) Other CE courses approved by the Advisory Council (e.g., real estate tax laws).
- 4) Pursuant to Section 37.3(b) of the Act, one hour of approved CE shall include at least 50 minutes of classroom instruction and shall be exclusive of any time devoted to taking the examination as set forth in subsection (b)(6) below.
- 5) Each CE course shall include one or more subjects from the mandatory category of elective category set forth in subsection (b)(3)(A) or (b)(3)(B), where the individual is in actual attendance, or participates in, or completes self-study. All CE courses shall be a minimum of three hours and shall be offered in three-hour increments. Each three-hour increment shall be from topics from the mandatory or elective category. In no case shall topics from the mandatory and elective category be intermingled within the same three-hour period. The sponsor shall clearly indicate on the certificate of completion the number of hours earned from each CE course and identify whether the completed course was from the mandatory or elective category.
- 6) Each CE course shall include the successful completion of an examination which measures the attendee's understanding of the course material. A score of at least 70% is required on the examination for successful completion of any CE course.
- A) The examination shall be given on-site immediately following any CE course. When a sequence of courses is offered, the examination may be given either at the end of each individual course or it may be given at the end of the sequence of courses so long as the examination covers all aspects of the course material.
- B) All examinations, including self-study examinations and retake examinations, shall be proctored by a representative of the approved sponsor and shall include at least 25 questions for each three-hour increment of CE earned. No course material, notes, or other aides shall be referred to during the examination by the student with the exception of amortization tables, tax tables and calculators.
- C) No credit for CE shall be given to any licensee unless the examination is successfully completed. The sponsor shall

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- allow the attendee one retake within 30 days after a failed examination in order to receive credit for CE. No more than one retake shall be allowed. A licensee failing a retake shall not receive credit for that CE course unless the entire course is retaken and the examination is successfully completed.
- 7) Self-study CE shall comply with all of the requirements of this Section, except that:
- A) Verified attendance is only required for taking the examination.
 - B) Classroom instruction is not required for self-study CE, as the intent is for the licensees to review and learn the material on their own.
 - C) Acceptable self-study materials include, but are not limited to, reading material and audio/video cassettes.
 - D) The examination site for self-study CE shall be determined by the sponsor, and it shall be proctored by a representative of the approved sponsor. An approved instructor is not required to proctor the examination.
- 8) All CE courses shall:
- A) Contribute to the advancement, integrity, extension and enhancement of professional skills and knowledge in the practice of real estate;
 - B) Provide experiences (e.g., role playing, lectures, films) which contain subject matter and course materials relevant to that set forth in Section 37.4 of the Act; and
 - C) Be developed and presented by persons with education and/or experience in the subject matter of the CE course.
- 9) Nothing shall prohibit an approved sponsor and its instructors from utilizing audio-visual aides or satellite communications with two-way voice interaction in assisting in the presentation of CE courses.
- 10) Pursuant to Section 37.4, a maximum of 6 hours of CE credit per prelicense period may be earned by an approved instructor for teaching an approved CE course or pre-license course. One hour of teaching is equal to one hour of CE.
- 11) As provided for in Section 37 of the Act, if licensees have earned CE hours offered in another state or territory for which they will be claiming credit toward full compliance in Illinois, each applicant shall submit an application along with a \$25 processing fee within 90 days after completion of the CE course and prior to expiration of the license. The Advisory Council shall review and recommend approval or disapproval of the CE course provided the sponsor and CE course are substantially equivalent to those approved in Illinois and provided that the course included the successful completion of a closed book, proctored examination. In determining whether the sponsor and CE course are substantially equivalent, the Advisory Council shall

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use the criteria in Article III of the Act and this Section.
 12) CE credit shall not be given for CE courses taken in Illinois from sponsors not pre-approved by the Office of Banks and Real Estate.

c) Continuing Education Sponsors and Courses

1) Sponsor, as used in this Section, shall mean a person, firm, association, corporation, real estate school approved under Article I of the Act, or any other group which has been approved and authorized by the Office of Banks and Real Estate upon the recommendation of the Advisory Council to coordinate and present CE courses.

2) Those entities seeking approval as CE sponsors shall maintain an office for maintenance of all records, office equipment and office space necessary for customer service.

A) The CE sponsor's office may be subject to inspection by authorized representatives of the Office of Banks and Real Estate during regular working hours when the Office of Banks and Real Estate has reason to believe that there is not full compliance with the Act or this Part and that this inspection is necessary to ensure full compliance.

B) The Office of Banks and Real Estate shall, upon an on-site inspection of an out-of-state sponsor, be reimbursed by the sponsor for all expenses incurred by the inspector in the course of the inspection.

3) Entities seeking approval as CE sponsors shall file a sponsor application, on forms provided by the Office of Banks and Real Estate, along with the required fee set forth in Section 37.5 of the Act. The application shall include the following:

A) A list of all CE courses that the sponsor is planning to offer during the 12 month period following approval;
 B) The description, location, date and time of each CE course to be offered;

C) A list of all instructors the sponsor plans to utilize in the offering of CE courses. Such list shall include the instructor's name, address, and approval number;

D) A copy of a certificate of attendance planned to be used which meets the requirements set forth in Section 37.5 of the Act;

E) As provided in Section 37.5(m) of the Act, an approved sponsor shall not be precluded from offering CE courses or from utilizing instructors not listed in the initial application or subsequent annual renewals if written notice of the CE course and the instructor to be utilized is submitted 30 days prior to the CE course date pursuant to subsection (c)(3)(F)(v) below;

F) The sponsor's certification on the application--the sponsor shall certify to the following:

i) That the content areas of all CE courses offered by

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the sponsor for CE credit will conform to those listed in Section 37.4(a) and (b) of the Act and that CE sponsors shall not offer for approved credit any of the courses set forth in Section 37.9 of the Act;

ii) That all CE courses offered by the sponsor for CE credit will comply with the criteria in this Section;

iii) That the sponsor shall be responsible for verifying attendance at each CE course and provide a certificate of completion signed by the sponsor which meets the requirements of Section 37.5 of the Act. The sponsor shall maintain these records for not less than 5 years and shall make these records available for inspection by the licensee or the Office of Banks and Real Estate or its designee during regular business hours;

iv) That upon request by the Office of Banks and Real Estate, the sponsor will submit such evidence as is necessary to establish compliance with this Section and Section 37.5 of the Act. Such evidence shall be required when the Office of Banks and Real Estate has reason to believe that there is not full compliance with the Act and this Part and that this information is necessary to ensure compliance;

v) That each sponsor shall submit to the Office of Banks and Real Estate a written notice of a CE course 30 days prior to the CE course date if such program was not listed in the application or any subsequent renewal application. The notice shall include the description, location date and time of the CE course to be offered;

vi) That the sponsors shall only offer CE in an environment which is conducive to learning (i.e., adequate lighting, seating) and does not jeopardize the health, safety, and welfare of the attendee(s). That CE shall apply to self-study CE courses; and

vii) That CE shall not be used to replace CE courses and maintain its office in order to be available to the sponsor to comply with Article III of the Act. This Section and this Part, mandated by a current balance sheet, an income statement or any such similar evidence as requested by the Office of Banks and Real Estate.

4) Real estate schools approved to offer the courses required by Article I of the Act shall be deemed to be approved to offer CE programs upon completion of an application for approval and the submission of the \$2,000 fee required by Section 37.5 of the Act. Any college or university exempt from paying a fee for school approval under Article I of the Act is also exempt from paying the fee to become an approved continuing education sponsor under

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Article III of the Act.

5) Within 30 days after the action by the Advisory Council, the Office of Banks and Real Estate shall issue approval to the sponsor or notify such sponsor, in writing, why approval cannot be issued.

6) Approved CE sponsors shall comply with the following:

A) No approved sponsor shall allow the premises or classrooms utilized during CE courses to be used by anyone to directly or indirectly recruit new affiliates for any company. Sponsors and instructors shall report to the Office of Banks and Real Estate any efforts to recruit licensees.

B) No approved sponsor shall advertise that it is endorsed, recommended, or accredited by the Office of Banks and Real Estate. Such sponsor, however, may indicate that the sponsor and the CE course have been approved by the Office of Banks and Real Estate.

C) Approved sponsors shall utilize in the teaching of approved CE courses only instructors who have been approved by the Office of Banks and Real Estate.

D) Approved sponsors shall specify in any advertising promoting CE courses the number of CE hours that may be credited toward Illinois CE requirements for license renewal. Further, approved sponsors shall specify the number of mandatory and elective CE course hours that may be earned as set forth in subsections (b)(3)(A) and (b)(3)(B) above.

E) All CE courses given by approved sponsors shall be open to all licensees and not be limited to members of a single organization or group.

7) The sponsor shall be responsible for assuring verified attendance at each CE course or self-study examination. No renewal applicant shall receive CE credit for time not actually spent attending the CE course or when a passing score of 70% on the examination was not achieved in accordance with Section 37.5 of the Act.

8) To maintain approved sponsor status, each sponsor shall annually during the 30 days preceding April 1 a sponsor renewal application along with the required fee set forth in Section 37.5 of the Act. The sponsor shall be required to submit to the Office of Banks and Real Estate with the renewal application the following:

A) A list of those CE courses planned to be offered in the 12-month period immediately following the renewal period. This list shall include a description, location, date and time the course is planned to be offered.

B) A list of those instructors the sponsor plans to utilize. This list shall include the name, address, and instructor approval number for each.

9) Each approved CE sponsor shall submit to the Office of Banks and Real Estate on or before the 15th of each month a graduation

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report of those licensees passing approved CE courses under its sponsorship during the preceding calendar month.

A) The monthly graduation reports shall include the following information for each licensee:

- i) the licensee's name, address, social security number, and license number;
- ii) the CE course sponsor's name and license number; and
- iii) the CE course name, course identification number, course category (mandatory or elective), credit hours, and the date and time classes were held.

B) If no courses were given by a CE sponsor during the preceding calendar month, that CE sponsor shall report in writing that no courses were given.

C) The monthly graduation reports shall be submitted on computer or paper media in a format specified by the Office of Banks and Real Estate.

D) There is no processing fee for a monthly graduation report submitted on computer media specified by the Office of Banks and Real Estate or for a written report submitted pursuant to subsection (c)(9)(B) of this Section. Each monthly graduation report submitted on paper or in a format other than that specified by the Office of Banks and Real Estate shall be accompanied by a processing fee of \$-50 per licensee. Per course, listed on the report, payable by check to the Office of Banks and Real Estate.

E) A monthly graduation report received by the Office of Banks and Real Estate with a postmark after the day it is due (the 15th day of the month) shall be accompanied by an administrative fee of \$200 in addition to the fees set forth above.

F) If a sponsor of CE courses fails to file monthly graduation reports, or fails to pay required fees, if any, as set forth in subsections (c)(9)(D) and (E) of this Section for three successive months, then the courses offered by that sponsor may be disqualified pursuant to procedures set forth in Section 37.5(k) of the Act until such time as all delinquent graduation reports, processing fees, and administrative fees as set forth in subsections (c)(9)(D) and (E) of this Section have been submitted to and are received by the Office of Banks and Real Estate. The Office of Banks and Real Estate shall send notice to the sponsor of hearing before the Educational Advisory Council and of pending disqualification pursuant to Section 37.5(k) by certified mail, return receipt requested.

d) Continuing Education Instructors

1) An applicant seeking approval from the Office of Banks and Real Estate to become an approved CE instructor shall submit a completed application, on forms provided by the Office of Banks

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and Real Estate, along with the fee as provided for in Section 37.5 of the Act.

- 2) An individual applying to become an approved CE instructor shall meet the following criteria, as provided for in Section 37.5(1) of the Act:

- A) Has held a real estate brokers license for at least the last three years and has been engaged in active practice as a real estate broker; or
- B) Is currently admitted to practice law and for three years has been engaged in real estate related work as part of his/her active practice of law or has taught pre-licensure real estate courses; or
- C) Is a properly credentialed instructor of real estate courses who is or has been engaged in the practice of teaching for at least three years; or as evidenced by a professional designation, such as but not limited to a designated real estate instructor (DREI); or approved by a college or university's governing body to teach in a real estate degree program; or
- D) Is properly licensed or certified to engage in the business of appraisal, finance and/or related real estate occupations (not including real estate salespersons) and for at least three years has been engaged in such practice; or
- E) Is qualified by experience or education, or both, to teach CE pursuant to the provisions of this Section. In determining whether a person is qualified to teach CE under this Section, the Director of Real Estate shall consider the following:
 - i) The individual's teaching experience;
 - ii) The individual's real estate experience;
 - iii) Any real estate, business or legal education of the individual; and
 - iv) the results of a personal interview with the individual. The personal interview may be conducted via telephone if it would be overly burdensome and unreasonable for the applicant to personally appear for the interview (e.g., applicant living out-of-state).

Any applicant who the Director has determined does not meet the requirements of this subsection (d)(2)(E) shall be evaluated by the Advisory Council. The Advisory Council shall evaluate the application and make a recommendation to the Commission for approval or disapproval of the applicant as a CE instructor. The Office of Banks and Real Estate shall advise approval to the applicant or notify the applicant in writing why approval cannot be issued.

- 3) Instructors approved to teach appraisal and broker pre-licensure courses, pursuant to Section 1450.280 of this Part, are deemed

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approved as CE instructors as long as they maintain their approval under Section 1450.280 of this Part, submit an application to the Office of Banks and Real Estate for approval and pay the fee as provided for in Section 37.5 of the Act.

- 4) Within 30 days after receipt of an application, the Office of Banks and Real Estate shall issue approval to the applicant or notify such applicant in writing why approval cannot be issued.
- 5) To maintain approved status, CE instructors shall submit annually during the 30 days preceding April 1 an instructor renewal application, on forms provided by the Office of Banks and Real Estate, along with the fee as provided for in Section 37.5 of the Act.

e) Withdrawal of Approval

- 1) Upon written recommendation of the Advisory Council, the Office of Banks and Real Estate shall withdraw, suspend or place on probation the approval of an approved CE sponsor or an approved CE instructor when, at any time, the quality of the CE fails to meet the established criteria as set forth in this Section and Article III of the Act or if sponsorship or instructor approval was based upon false or deceptive information or if any other related license of the sponsor or instructor is suspended, revoked or otherwise disciplined.

- 2) If the Office of Banks and Real Estate or Advisory Council has reason to believe there has been fraud, dishonesty, or lack of integrity in the furnishing of any documentation for the evaluation of a sponsor or instructor, it shall refer such matter to the appropriate personnel for investigation and any disciplinary action which might be appropriate under the Act in accordance with 68 Ill. Adm. Code 1110.

f) Certification of Compliance with CE Requirements

- 1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in subsections (a) and (b) above.

- 2) The Office of Banks and Real Estate may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of attendance). Such evidence shall be required in the context of the Office of Banks and Real Estate's random audit. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of such compliance.

- 3) In the context of an audit, the Office of Banks and Real Estate shall accept verification (e.g., original transcript, certificate) submitted directly from the sponsor on behalf of the renewal applicant as proof of CE completed.

- 4) When during an audit or compliance review, the Office of Banks and Real Estate determines that a licensee may be deficient in complying there-appears-to-be-a-lack-of-compliance with CE requirements, an applicant will be notified-and-may-request-an-interview-with-the-disciplinary-board-at-that-time-the-board-may

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recommend-that-steps-be-taken-to-begin-formal-disciplinary proceedings-as-required-by-Section-10-45-of-the-Illinois Administrative-Procedure-Act-(5-ties--46/48-64) the Office of Banks and Real Estate will notify the licensee, and the managing broker or firm of the licensee, by certified mail, return receipt requested, of any possible deficiency. The licensee shall have 60 days from the date such deficiency notification is received to submit to the Office of Banks and Real Estate evidence of compliance with CE requirements.

A) If satisfactory evidence of compliance with CE requirement [as set forth in subsections (f)(2) and (3) of this Section] is submitted, the Office of Banks and Real Estate shall notify the licensee, and the managing broker or firm of the licensee, by first class mail, that the licensee is in compliance.

B) If the licensee has certified compliance with CE requirements on the licensee's most recent renewal application pursuant to subsection (f)(1) of this Section but cannot submit evidence of having been in compliance on the date the licensee made such certification, the licensee may, during the 60 days after the period submit evidence of compliance with CE requirements after the date such certification was made. The submission of evidence of compliance must be accompanied by a non-refundable administrative fee of \$75 per course credit hour completed after the date the licensee originally certified compliance. The submission of evidence will not be reviewed or considered if the processing fee is not accompanied by the submission. Upon submission of the evidence and appropriate fee, the evidence will be reviewed. If the evidence is found to be satisfactory, the Office of Banks and Real Estate shall notify the licensee and the managing broker or firm of the licensee that the licensee is in compliance. Any credit hours submitted for post-certification course completion and found satisfactory may not be used as credit for the next renewal requirements.

C) If the licensee fails to submit within the 60 day notice period satisfactory evidence of compliance with CE requirements, such failure shall be evidence of a violation of Section 18(a) of the Act regarding false or fraudulent representation to obtain a license and the continuing education requirements of Article 3 of the Act. The Office of Banks and Real Estate shall send notice pursuant to Section 20 of the Act regarding requirements of disciplinary hearings and begin the disciplinary process. A copy of this notice shall be sent to the managing broker or firm of the licensee.

g) Waiver of CE Requirements

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- 1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Office of Banks and Real Estate a renewal application along with a \$25 waiver processing fee and the renewal fee as provided by Section 15 of the Act.
- 2) Pursuant to Section 37.8(c) of the Act, to be granted an interview before the Advisory Council with respect to a request for waiver, the interview must be requested at the time the request for such waiver is filed with the Office of Banks and Real Estate. The renewal applicant shall be given at least 20 days written notice of the date, time and place of such interview by certified mail, return receipt requested.
- 3) CE requirements shall automatically be waived for those persons listed as exempt pursuant to Section 37.1 of the Act and subsections (a)(3) and (a)(4) of this Section above.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) **Heading of the Part:** Existing Activities in a Setback Zone or Regulated Recharge Area
- 2) **Code citation:** 35 Ill. Adm. Code 615
- 3) **Section numbers:**
615-102
615-204
615-462
- 4) **Statutory authority:** 415 ILCS 5/14.4, 21, 22, and 27
- 5) **A complete description of the subjects and issues involved:**

The Board's responsibility in this matter arises from the Environmental Protection Act (Act) (415 ILCS 5). The Board is charged therein to "determine, define and implement the environmental control standards applicable in the State of Illinois" (415 ILCS 5/3(b)). More generally, the Board's rulemaking charge is based on the system of checks and balances integral to Illinois' environmental governance: the Board bears responsibility for the rulemaking and principal adjudicatory functions; the Agency has primary responsibility for administration of the Act and the Board's regulations, including the regulations today proposed for amendment.

A more detailed description is contained in the Board's opinion of November 21, 1996 in 996-18 which is available from the address below. The 996-18 proceeding of which the amendments to this Part are just one segment updates the Board's drinking water rules to incorporate several amendments proposed by the Illinois Environmental Protection Agency (Agency) in its amended petition for general rulemaking filed on September 4, 1996 and its second amended petition filed on October 16, 1996. Affected by the larger 996-18 proceeding are Parts 601, 602, 603, 607, 615, 616, 617 & 620 of Subtitle F.

The majority of the proposed amendments are of a non-substantive, "housekeeping" nature, including items such as replacing citations to Illinois Revised Statutes with citations to Illinois Compiled Statutes. The proposed amendments also contain two substantive items. The first would allow the Agency to issue construction permits notwithstanding the fact that a public water supply is on the restricted status list for a violation of the radium maximum concentration level. (MCL). The second would, through revision of the authority note for the groundwater quality regulations, note that the groundwater regulations were adopted pursuant to the Act.

In particular, the amendments to Part 615 make a number of corrections and updates to the text of the rules, such as converting phrases to standard

POLLUTION CONTROL BOARD

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- usage and converting references to the current statute titles and citations.
- 6) **Will these proposed amendments replace emergency amendments currently in effect?** No
- 7) **Does this rulemaking contain an automatic repeal date?** No
- 8) **Do these proposed amendments contain incorporations by reference?** Yes. The existing text of Part 615 includes incorporations by reference. However, the present amendments do not affect those incorporations
- 9) **Are there any other amendments pending on this Part?** No
- 10) **Statement of statewide policy objectives:** This rulemaking is authorized by Sections 14.4, 22, 27 of the Environmental Protection Act. The Act's policy objectives are set forth in Section 11 of that Act. Although the nature of the present amendments is intended to make conforming and update the existing text of to rely on existing regulatory burden, this rulemaking may impose mandates on units of local government to the extent they supply drinking water to at least 25 of the same persons over 6 months per year.
- 11) **Time, place and manner in which interested persons may comment on this proposed rulemaking:** The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket 996-18 and be addressed to:

Ms. Dorothy M. Gurn, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601
312-814-6931

Direct all questions to Michael J. McCombridge at 312-814-6924.

Request copies of the Board's opinion and order from Victoria Aygeman at 312-814-3620.

12) **Initial regulatory flexibility analysis:**

A) **Types of small businesses affected:** This rulemaking will affect only those small businesses that supply drinking water to at least 25 of the same persons over 6 months per year.

B) **Reporting, bookkeeping or other procedures required for compliance:**

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The existing drinking water rules impose significant reporting, bookkeeping, and other procedures on small businesses that supply drinking water to at least 25 of the same persons over 6 months per year. Although the nature of the present amendments is intended to make corrections to and update the existing text or to relax an existing regulatory burden, this rulemaking may increase the regulatory burden on small businesses.

- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require small businesses that supply drinking water to at least 25 of the same persons over 6 months per year to employ the services of an attorney, certified public accountant, chemist and registered professional engineer. Although the nature of the present amendments is intended to make corrections to and update the existing text or to relax an existing regulatory burden, this rulemaking may increase the regulatory burden on small businesses.

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1996

The full text of the proposed amendments begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER 1: POLLUTION CONTROL BOARD

PART 615

EXISTING ACTIVITIES IN A SETBACK ZONE OR REGULATED RECHARGE AREA

SUBPART A: GENERAL

Section	Purpose
615.101	Definitions
615.102	Incorporations by Reference
615.103	Prohibitions
615.104	General Exceptions
615.105	

SUBPART B: GROUNDWATER MONITORING REQUIREMENTS

Section	Applicability
615.201	Compliance Period
615.202	Compliance with Groundwater Standards
615.203	Groundwater Monitoring System
615.204	Groundwater Monitoring Program
615.205	Contaminants to be Monitored
615.206	Sampling Frequency
615.207	Reporting
615.208	Non-Compliance Response Program
615.209	Alternate Non-Compliance Response Program
615.210	Corrective Action Program
615.211	

SUBPART C: GENERAL CLOSURE AND POST-CLOSURE REQUIREMENTS

Section	Applicability
615.301	Closure Performance Standard
615.302	Certification of Closure
615.303	Survey Plat
615.304	Post-Closure Notice for Waste Disposal Units
615.305	Certification of Completion of Post-Closure Care
615.306	Post-Closure Care Period
615.307	

SUBPART D: ON-SITE LANDFILLS

Section	Applicability
615.401	Required Closure of Units Located Within Minimum Setback Zones
615.402	

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"Certification" means a statement of professional opinion based upon knowledge and belief.

"Community Water Supply" means a public supply which serves or is intended to serve at least 15 service connections used by residents or regularly serves at least 25 residents. (Section 3.05 of the Act)

"Compliance point" means any point in groundwater designated at 35 Ill. Adm. Code 620.Subpart B as a Class I through III groundwater at which a contaminant released from the unit could pass underneath the unit boundary. There may be more than one compliance point for a particular unit.

"Commencement of construction" means that all necessary federal, state, and local approvals have been obtained, and work at the site has been initiated and proceeds in a reasonably continuous manner to completion. (Section 3.58 of the Act)

"Container" means any portable device (including, but not limited to, 55 gallon drums) in which material is stored, treated, disposed of or otherwise handled. The term "container" does not include a vehicle used to transport material.

"Containerized" means being in a container.

"Contaminant" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source. (Section 3.06 of the Act)

"Contamination" or "contaminant", when used in connection with groundwater, means water pollution of such groundwater. (Section 3.63 of the Act)

"Date of first applicability" means the effective date of this Part for any unit located within a minimum setback zone, except that:

If a unit is first incorporated into any setback zone by an ordinance or regulation that establishes a maximum setback zone, the date of first applicability is the effective date of this Part or the effective date of the ordinance or regulation that establishes the maximum setback zone, whichever is later; or

If a unit is located in a part of a regulated recharge area that was not previously part of a setback zone, the date of first applicability is the effective date of the regulation that establishes the regulated recharge area.

"De-icing agent" means a chemical used for de-icing, including but not limited to sodium chloride and calcium chloride. Sand, ashes, or

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other abrasive materials that do not alter the freezing point of water are not de-icing agents.

"Detection" means the identification of a contaminant in a sample at a value equal to or greater than the:

"Method Detection Limit" or "MDL", which means the minimum concentration of a substance that can be measured as reported with 99 percent confidence that the true value is greater than zero pursuant to 56 Fed. Reg. 3526-3397 incorporated by reference at Section 615.103; or

"Method Quantitation Limit" or "MQL", which means the minimum concentration of a substance that can be measured and reported pursuant to "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods", incorporated by reference at Section 615-103.

"Dike" means an embankment or ridge of either natural or manmade materials used to prevent the movement of liquids, sludges, solids, or other materials.

"Discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of any material onto or on any land or water.

"Disposal" means the discharge, deposit, injection, dumping, spillage, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters. (Section 3.08 of the Act)

"Existing unit" means a unit that was in operation or for which there is commencement of construction on or before the date of first applicability, except that a unit is not an existing unit if the unit:

Expands laterally beyond the currently permitted boundary, or the unit boundary if the unit is not permitted, in existence after the date of first applicability; or

Is part of a facility that undergoes major reconstruction after the date of first applicability; or

Reopens at any time after having submitted a certification of closure to the Agency.

"Facility" means all contiguous land and structures, other

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appearances and improvements on the land used for the treating, storing, handling, or disposal of any material which causes that unit to be regulated under this Part. A facility may consist of one or more units.

"Freeboard" means the vertical distance between the top of a tank or dike and the surface of the material contained therein.

"Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure. To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following test must be used:

Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Publication No. SW-846), incorporated by reference at Section 615-103.

"Groundwater" means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure. (Section 3.64 of the Act)

"Groundwater standards" means the water quality standards for groundwater adopted by the Board under Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55] § 11-1/2, Rev-Stat-1989-CH 11-1/2, PAR-74567 and found at 35 Ill. Adm. Code 620.

"Hazardous waste" means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed, and which has been identified, by characteristics or listing, as hazardous pursuant to 35 Ill. Adm. Code 721. (Section 3.15 of the Act)

"Incompatible material" means a material which may:

Cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or

When comingled with another material, produces heat or pressure, fire, explosion, violent reaction, toxic dusts, mists, fumes or gases, or flammable fumes or gases.

"Landfill" means a unit or part of a facility in or on which waste is placed and accumulated over time for disposal, and which is not a land application unit, a surface impoundment or an underground injection

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well.

"Landscape waste" means all accumulations of grass or shrubbery cuttings, leaves, tree limbs and other materials accumulated as the result of the care of lawns, shrubbery, vines and trees. (Section 3.20 of the Act)

"Land application unit" means an area where wastes are agronomically spread over or disked into land or otherwise applied so as to become incorporated into the soil surface.

"Land treatment" means the application of waste onto or incorporation of waste into the soil surface. For the purposes of this Part a land application unit is a land treatment unit.

"Leachate" means any liquid, including suspended components in the liquid, that has percolated through or drained from a material.

"Licensed water well contractor" means a person licensed under the Water Well and Pump Installation Contractor's License Act [225 ILCS 345] § 11-1/2, Rev-Stat-1989-CH-11-1/2, PAR-7181-ET-SEQ-7.

"Liner" means a continuous layer of natural or manmade materials beneath or on the side of a surface impoundment, landfill, landfill cell, waste pile, or storage pile which restricts the downward or lateral escape of waste, waste constituents, leachate or stored materials.

"Major reconstruction" means commencement of construction at a facility where the fixed capital cost of the new components constructed within a 2-year period exceeds 50% of the fixed capital cost of a comparable entirely new facility. New components do not include any new components necessary for compliance with this Part.

"New unit" means a unit that is not an existing unit.

"Non-community water supply" means a public water supply that is not a community water supply. (Section 3.05 of the Act)

"Non-special waste" means a waste that is not a special waste.

"Off-site" means not on-site.

"On-site", "on the site", or "on the same site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection and access is by crossing as opposed to going along the right-of-way. Noncontiguous properties

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owned by the same person but connected by a right-of-way which he controls and to which the public does not have access is also considered on-site property.

"Operator" means the person responsible for the operation of a site, facility or unit.

"Owner" means the person who owns a site, facility or unit or part of a site, facility or unit, or who owns the land on which the site, facility or unit is located.

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant. (Section 3.71 of the Act)

"Pile" means any noncontaminized accumulation of solid, non-flowing material that is used for treatment, storage or disposal.

"Potable" means generally fit for human consumption in accordance with accepted water supply principles and practices. (Section 3.65 of the Act)

"Practical Quantitation Limit" or "PQL" means the lowest concentration or level that can be reliably measured within specified limits of precision and accuracy during routine laboratory operating conditions in accordance with "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, incorporated by reference in Section 615.103.

"Public water supply" means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a "community water supply" or a "non-community water supply." (Section 3.28 of the Act)

"Reactive material" means a material which meets one or more of the following criteria:

It is normally unstable and readily undergoes violent change without detonating;

It reacts violently with water;

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It forms potentially explosive mixtures with water;

When mixed with water, it generates toxic gases, vapors, or fumes in a quantity sufficient to present a danger to human health or the environment;

It is capable of detonation or explosive reaction if it is subject to a strong initiating source, or if heated under confinement;

It is readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure; or

It is a forbidden explosive as defined in 49 CFR 173 incorporated by reference in Section 615.103, or a Class A explosive as defined in 49 CFR 173.53 or a Class B explosive as defined in 49 CFR 173.88.

"Registered land surveyor" means a person registered under the Illinois Professional Land Surveyors Act of 1989 [225 ILCS 330] (11/11/Rev-Stat-1989-ehv-111v-pars-330a1-et-seq7).

"Registered professional engineer" means a person registered under the Illinois Professional Engineering Practice Act of 1989 [225 ILCS 325] (11/11/Rev-Stat-1989-ehv-111v-pars-325a1-et-seq7).

"Regulated recharge area" means a compact geographic area, as determined by the board pursuant to Section 17.4 of the Act, the geology of which renders a potable resource groundwater particularly susceptible to contamination. (Section 3.67 of the Act)

"Road oil" means slow-curing asphaltic oils which show no separation on standing and which are used for road construction, maintenance or repair.

"Runoff" means any rainwater, leachate or other liquid that drains over land from any part of a facility.

"Run-on" means any rainwater, leachate or other liquid that drains over land onto any part of a facility.

"Secondary containment structure" means any structure or basin intended to contain spills and prevent runoff or leaching from piles, containers, or tanks and related piping.

"Setback zone" means a geographic area, designated pursuant to this Act, containing a potable water supply well or a potential source or potential route having a continuous boundary, and within which certain

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prohibitions or regulations are applicable in order to protect groundwaters. (Section 3.61 of the Act)

"Site" means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations thereunder. (Section 3.43 of the Act)

"Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effects. (Section 3.44 of the Act)

"Special waste" means any industrial process waste, pollution control waste or hazardous waste, except as determined pursuant to Section 22.9 of the Act and 35 Ill. Adm. Code 808. (Section 3.45 of the Act)

"Storage" means the holding or containment of a material, either on a temporary basis or for a period of years, in such manner as not to constitute disposal of such material.

"Surface impoundment" means a natural topographical depression, man-made excavation, or diked area that is designed to hold liquid wastes or wastes containing free liquids.

"Surface water" means all waters that are open to the atmosphere.

"Tank" means a stationary device, designed to contain an accumulation of material which is constructed of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support. The term "tank" does not include areas used to accumulate materials prior to pumping to tanks or containers (i.e., sump pits) or associated piping.

The term "tank" does not include vehicles used to transport material.

"Treatment" means any method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of any material so as to neutralize such material, or so as to recover energy or material resources from the material or so as to render such material nonhazardous or less hazardous, safer to transport, store or dispose of, or amenable for recovery, amenable for storage or reduced in volume.

"Underground storage tank" means a storage tank as defined at 35 Ill. Adm. Code 731.101(f).

"Unit" means any device, mechanism, equipment, or area (exclusive of

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land utilized only for agricultural production). (Section 3.62 of the Act)

"Unit boundary" means a line at the land's surface circumscribing the area on which, above which or below which waste, pesticides, fertilizers, road oils or de-icing agents will be placed during the active life of the facility. The space taken up by any liner, dike or other barrier designed to contain waste, pesticides, fertilizers, road oils or de-icing agents falls within the unit boundary.

"Waste" means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining or agricultural operations, and from community activities, but does not include:

Industrial discharges with NPDES permits issued pursuant to 35 Ill. Adm. Code 309;

source, spent nuclear, or by-product materials as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2014);

any solid or dissolved material from any material subject to 62 Ill. Adm. Code 1700 through 1850. (Section 3.53 of the Act)

"Waste pile" means a pile consisting of waste that has a total volume greater than 10 cubic yards or within which the waste remains for more than 90 days.

"Waters" means all accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof, which are wholly or partly within, flow through, or border upon this state. (Section 3.56 of the Act)

"Well" means a bored, drilled or driven shaft, or dug hole, the depth of which is greater than the largest surface dimension. (Section 3.57 of the Act)

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 615.204 Groundwater Monitoring System

- a) Except as provided otherwise in subsection (b) of this Section, the groundwater monitoring system must consist of a sufficient number of wells, installed at appropriate locations and depths to yield groundwater samples, that:

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- 1) Represent the quality of background water that has not been affected by contamination from the facility or unit; and
- 2) Represent the quality of groundwater at the compliance point or points.
- b) If a potable water well or other water well can be used as a monitoring well pursuant to this subsection, no additional monitoring wells are required under this Section. A potable water well or other water well may be used as a monitoring well if:
 - 1) For a potable water well other than a community water supply well, a construction report has been filed with the Illinois Department of Public Health for such well, or such well has been located and constructed (or reconstructed) to meet the Illinois Water Well Construction Code [415 IACS 30] ¶¶iv-Rev-Stat-1989y ch-iii-1/2y-par-116-iii-et-seq-7 and 35 Ill. Adm. Code 920;
 - 2) For a water well other than a potable water well (e.g., a livestock watering well or an irrigation well), the owner or operator of the unit seeking to use the well as a monitoring well certifies to the Agency that a construction report has been filed with the Illinois Department of Public Health or the Illinois Department of Mines and Minerals for such well, or that such well has been located and constructed (or reconstructed) to meet the Illinois Water Well Construction Code [415 IACS 30] ¶¶iv-Rev-Stat-1989y-ch-iii-1/2y-par-116-iii-et-seq-7 and 35 Ill. Adm. Code 920; and
 - 3) The unit contains solely non-special waste if the unit is a surface impoundment.
- c) If a facility contains more than one unit, separate groundwater monitoring systems are not required for each unit, provided that provisions for sampling the groundwater will enable detection and measurement of contaminants that have entered the groundwater from all units.
- d) All monitoring wells must meet the following requirements:
 - 1) Construction must be done in a manner that will enable the collection of groundwater samples;
 - 2) Casings and screens must be made from durable material that is resistant to expected chemical or physical degradation and that does not interfere with the quality of groundwater samples being collected; and
 - 3) The annular space opposite the screened section of the well (i.e., the space between the bore hole and well screen) must be filled with gravel or sand if necessary to collect groundwater samples. The annular space above and below the well screen must be sealed to prevent migration of water from overlying adjacent formations and the surface to the sampled depth.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

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Section 615.462 Required Closure

A waste pile is deemed to be a landfill and thereby subject to the closure requirements of Subpart D unless the operator can demonstrate to the Agency that the wastes are not accumulated over time for disposal. At the minimum, such demonstration shall include photographs, records, or other observable or discernable information, maintained on a yearly basis, that show that within the preceding year the waste has been removed for utilization or disposed elsewhere.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Groundwater Quality

2) Code citation: 35 Ill. Adm. Code 620

3) Section numbers: Proposed action:

620.110 Amendment

620.230 Amendment

620.260 Amendment

620.301 Amendment

620.420 Amendment

620.450 Amendment

620.505 Amendment

4) Statutory authority: 415 ICES 55/8 and 415 ICES 5/27

5) A complete description of the subjects and issues involved:

The Board's responsibility in this matter arises from the Environmental Protection Act (Act) [415 ICES 5]. The Board is charged therein to "determine, define and implement the environmental control standards applicable in the State of Illinois" [415 ICES 5/5(b)]. More generally, the Board's rulemaking charge is based on the system of checks and balances integral to Illinois environmental governance: the Board bears responsibility for the rulemaking and principal adjudicatory functions; the Agency has primary responsibility for administration of the Act and the Board's regulations, including the regulations today proposed for amendment.

A more detailed description is contained in the Board's opinion of November 21, 1996 in R96-18, which is available from the address below. The R96-18 proceeding, of which the amendments to this Part are just one segment, updates the Board's drinking water rules to incorporate several amendments proposed by the Illinois Environmental Protection Agency (Agency) in its amended petition for general rulemaking filed on September 4, 1996 and its second amended petition filed on October 16, 1996. Affected by the larger R96-18 proceeding are Parts 601, 602, 603, 607, 615, 616, 617 & 620 of Subtitle F.

The majority of the proposed amendments are of a non-substantive, "housekeeping" nature, including items such as replacing citations to Illinois Revised Statutes with citations to Illinois Compiled Statutes. The proposed amendments also contain two substantive items. The first would allow the Agency to issue construction permits notwithstanding the fact that a public water supply is on the restricted status list for a violation of the radium maximum concentration level (MCL). The second would, through revision of the authority note for the groundwater quality regulations, note that the groundwater regulations were adopted pursuant to the Act.

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In particular, the amendments to Part 620 make a number of corrections and updates to the text of the rules, such as converting phrases to standard usage and converting references to the current statute titles and citations. Other amendments involve lifting the burden of the restricted status and standards for radium or gross alpha particle activity MCLs and most violations of the radium or gross alpha particle activity MCLs and revising the source note for the Part to reflect that the Board adopted the groundwater quality regulations pursuant to both the Illinois Groundwater Protection Act [415 ICES 55] and the Environmental Protection Act [415 ICES 5].

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? Yes. The existing text of Part 620 includes incorporations by reference. However, the present amendments do not affect those incorporations.

9) Are there any other amendments pending on this Part? No

10) Statement of statewide policy objectives: This rulemaking is authorized by Section 8 of the Illinois Groundwater Protection Act [415 ICES 55/8] and Section 27 of the Environmental Protection Act [415 ICES 5/27]. The statewide policy objectives are set forth in Section 11 of the Environmental Protection Act. Although the nature of the present amendments is intended to make corrections to and update the existing text or to relax an existing regulatory burden, this rulemaking may impose mandates on units of local government to the extent they supply drinking water to at least 25 of the same persons over 6 months per year.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R96-18 and be addressed to:

Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601
312-814-6931

Direct all questions to Michael J. McCombridge at 312-814-6924.

Request copies of the Board's opinion and order from Victoria Aggeman at 312-814-3620.

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12) Initial regulatory flexibility analysis:

- A) Types of small businesses affected: This rulemaking will affect only those small businesses that supply drinking water to at least 25 of the same persons over 6 months per year.
- B) Reporting, bookkeeping or other procedures required for compliance: The existing drinking water rules impose significant reporting, bookkeeping, and other procedures on small businesses that supply drinking water to at least 25 of the same persons over 6 months per year. Although the nature of the present amendments is intended to make corrections to and update the existing text or to relax an existing regulatory burden, this rulemaking may increase the regulatory burden on small businesses.
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require small businesses that supply drinking water to at least 25 of the same persons over 6 months per year to employ the services of an attorney, certified public accountant, chemist and registered professional engineer. Although the nature of the present amendments is intended to make corrections to and update the existing text or to relax an existing regulatory burden, this rulemaking may increase the regulatory burden on small businesses.

- 13) Regulatory agenda on which this rulemaking was summarized: July 1996

The full text of the proposed amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER I: POLLUTION CONTROL BOARD

PART 620

GROUNDWATER QUALITY

SUBPART A: GENERAL

Section	Purpose
620-105	Definitions
620-110	Prohibition
620-115	Incorporations by Reference
620-125	Exemption from General Use Standards and Public and Food Processing Water Supply Standards
620-130	Exclusion for Underground Water in Certain Man-Made Conduits
620-135	

SUBPART B: GROUNDWATER CLASSIFICATION

Section	Groundwater Designations
620-201	Class I: Potable Resource Groundwater
620-210	Class II: General Resource Groundwater
620-220	Class III: Special Resource Groundwater
620-230	Class IV: Other Groundwater
620-240	Groundwater Management Zone
620-250	Reclassification of Groundwater by Adjusted Standard
620-260	

SUBPART C: NONDEGRADATION PROVISIONS FOR APPROPRIATE GROUNDWATERS

Section	General Prohibition Against Use Impairment of Resource Groundwater
620-301	Applicability of Preventive Notification and Preventive Response Activities
620-305	Preventive Notification Procedures
620-310	Preventive Response Activities

SUBPART D: GROUNDWATER QUALITY STANDARDS

Section	Applicability	General Prohibitions Against Violations of Groundwater Quality Standards	Quality Standards for Class I: Potable Resource Groundwater	Quality Standards for Class II: General Resource Groundwater
620-401				
620-405				
620-410				
620-420				

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- 620.430 Groundwater Quality Standards for Class III: Special Resource
Groundwater
620.440 Groundwater Quality Standards for Class IV: Other Groundwater
620.450 Alternative Groundwater Quality Standards

SUBPART E: GROUNDWATER MONITORING AND ANALYTICAL PROCEDURES

- Section
620.505 Compliance Determination
620.510 Monitoring and Analytical Requirements

SUBPART F: HEALTH ADVISORIES

- Section
620.601 Purpose of a Health Advisory
620.605 Issuance of a Health Advisory
620.610 Publishing Health Advisories
620.615 Additional Health Advice for Mixtures of Similar-Acting Substances
APPENDIX A Procedures for Determining Human Threshold Toxicant Advisory Concentrations for Class I: Potable Resource Groundwater
APPENDIX B Procedures for Determining Hazard Indices for Class I: Potable Resource Groundwater for Mixtures of Similar-Acting Substances
APPENDIX C Guidelines for Determining When Dose Addition of Similar-Acting Substances in Class I: Potable Resource Groundwaters is Appropriate
APPENDIX D Confirmation of an Adequate Corrective Action Pursuant to 35 Ill. Adm. Code 620.250(a)(2)

AUTHORITY: Implementing Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55/8] and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/27].

SOURCE: Adopted in R89-14(B) at 15 Ill. Reg. 17614, effective November 25, 1991; amended in R89-14(C) at 16 Ill. Reg. 14667, effective September 11, 1992; amended at 18 Ill. Reg. 14084, effective August 24, 1994; amended in R96-18 at 21 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 620.110 Definitions

The definitions of the Environmental Protection Act [415 ILCS 5] ~~that~~ Revr Stat-1989, chv-111-1/2, par-1801-et-seq+ and the Groundwater Protection Act [415 ILCS 55] ~~that~~ Revr Stat-1989, chv-111-1/2, par-745a-et-seq+ apply to this Part. The following definitions also apply to this Part.

"Act" means the Environmental Protection Act [415 ILCS 5] ~~that~~ Revr Stat-1989, chv-111-1/2, par-1801-et-seq+.

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"Agency" means the Illinois Environmental Protection Agency.

"Aquifer" means saturated (with groundwater) soils and geologic materials which are sufficiently permeable to readily yield economically useful quantities of water to wells, springs, or streams under ordinary hydraulic gradients. (Section 3(b) of the ICOPA)

"BTEX" means the sum of concentrations of benzene, ethylbenzene, toluene, and xylenes.

"Board" means the Illinois Pollution Control Board.

"Carcinogen" means a chemical, or complex mixture of closely related chemicals, which has been listed or classified in the Integrated Risk Information System or as specified in a final rule adopted by the USEPA in accordance with USEPA Guidelines for Carcinogenic Risk Assessment, incorporated by reference at Section 620.125, to be a group A, B(1), or B(2) carcinogen.

"Community Water Supply" means a public supply which serves or is intended to serve at least 15 service connections used by residents or regularly serves at least 25 residents. (Section 3.05 of the Act)

"Contaminant" means any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source. (Section 3.06 of the Act)

"Corrective action process" means those procedures and practices that may be imposed by a regulatory agency when a determination has been made that contamination of groundwater has taken place, and are necessary to address a potential or existing violation of the standards set forth in Subpart D.

"Cumulative impact area" means the area, including the coal mine area permitted under the Illinois Coal Mining Land Conservation and Reclamation Act [225 ILCS 720] ~~that~~ Revr Stat-1989, chv-96-1/2, par-1991-et-seq+ as amended, and 62 Ill. Adm. Code 1700 through 1950, within which impacts resulting from the proposed operation may interact with the impacts of all anticipated mining on surface water and groundwater systems.

"Detection" means the identification of a contaminant in a sample at a value equal to or greater than the:

"Method Detection Limit" or "MDL" which means the minimum concentration of a substance that can be measured as reported with 99 percent confidence that the true value is greater than zero, pursuant to 56 Fed. Reg. 3526-3597, incorporated by reference at Section 620.125; or

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"Method Quantitation Limit" or "MQL" which means the minimum concentration of a substance that can be measured and reported pursuant to "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods", incorporated by reference at Section 620.125.

"Department" means the Illinois Department of Energy and Natural Resources.

"Groundwater" means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure. (Section 3.64 of the Act)

"Hydrologic balance" means the relationship between the quality and quantity of water inflow to, water outflow from, and water storage in a hydrologic unit such as a drainage basin, aquifer, soil zone, lake, or reservoir. It encompasses the dynamic relationships among precipitation, runoff, evaporation, and changes in ground and surface water storage.

"IGPA" means the Illinois Groundwater Protection Act. [415 ILCS 55]. (11-11-Rev; Statv-1989y-chv-111-1/2; para-7452-et-seq;)

"LOAEL" or "lowest observable adverse effect level" means the lowest tested concentration of a chemical or substance which produces a statistically significant increase in frequency or severity of non-overt adverse effects between the exposed population and its appropriate control. LOAEL may be determined for a human population (LOAEL-H) or an animal population (LOAEL-A).

"NOAEL" or "No observable adverse effect level" means the highest tested concentration of a chemical or substance which does not produce a statistically significant increase in frequency or severity of non-overt adverse effects between the exposed population and its appropriate control. NOAEL may be determined for a human population (NOAEL-H) or an animal population (NOAEL-A).

"Non-Community Water Supply" means a Public Water Supply that is not a community water supply. (Section 3.05)

"Off-site" means not on-site.

"On-site" means on the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between properties is at a crossroads intersection and access is by crossing as opposed to going along the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have

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access is also considered on-site property.

"Operator" means the person responsible for the operation of a site, facility or unit.

"Owner" means the person who owns a site, facility or unit or part of a site, facility or unit, or who owns the land on which the site, facility or unit is located.

"Potable" means generally fit for human consumption in accordance with accepted water supply principles and practices. (Section 3.65 of the Act)

"Potential Primary Source" means any unit at a facility or site not currently subject to a removal or remedial action which:

is utilized for the treatment, storage, or disposal of any hazardous or special waste not generated at the site; or

is utilized for the disposal of municipal waste not generated at the site, other than landscape waste and construction and demolition debris; or

is utilized for the landfilling, land treating, surface impounding or piling of any hazardous or special waste that is generated on the site or at other sites owned, controlled or operated by the same person; or

stores or accumulates at any time more than 75,000 pounds above ground, or more than 7,500 pounds below ground, of any hazardous substances. (Section 3.59 of the Act)

"Potential Route" means abandoned and improperly plugged wells of all kinds, drainage wells, all injection wells, including closed loop heat pump wells, and any excavation for the discovery, development or production of stone, sand or gravel. (Section 3.58 of the Act)

"Potential Secondary Source" means any unit at a facility or a site not currently subject to a removal or remedial action, other than a potential primary source, which:

is utilized for the landfilling, land treating, or surface impounding of waste that is generated on the site or at other sites owned, controlled or operated by the same person, other than livestock and landscape waste, and construction and demolition debris; or

stores or accumulates at any time more than 75,000 but not more

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than 75,000 pounds above ground, or more than 2,500 but not more than 7,500 pounds below ground, of any hazardous substance; or stores or accumulates at any time more than 25,000 gallons above ground, or more than 500 gallons below ground, of petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance; or

stores or accumulates pesticides, fertilizers, or road oils for purposes of commercial application or for distribution to retail sales outlets; or

stores or accumulates at any time more than 50,000 pounds of any de-icing agent; or

is utilized for handling livestock waste or for treating domestic wastewaters other than private sewage disposal systems as defined in the Private Sewage Disposal Licensing Act. [225 ILCS 225-1-1111-Rev-Stat-1989-CH-111-1/2-Par-16-301-et-seq- (Section 3-66-of-the-Act)]

"Practical Quantitation Limit" or "PQL" means the lowest concentration or level that can be reliably measured within specified limits of precision and accuracy during routine laboratory operating conditions in accordance with "Test Methods For Evaluating Solid Wastes, Physical/Chemical Methods", EPA Publication No. SW-846, incorporated by reference at Section 620.125.

"Previously mined area" means land disturbed or affected by coal mining operations prior to February 1, 1983.

(Board Note: February 1, 1983, is the effective date of the Illinois permanent program regulations implementing the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 7201-1111-Rev-Stat-1989-CH-96-1/2-Par-1-3981-et-seq-as-amended] as codified in 62 Ill. Adm. Code 1700 through 1850.)

"Property class" means the class assigned by a tax assessor to real property for purposes of real estate taxes.

(Board Note: The property class [rural property, residential vacant land, residential with dwelling, commercial residence, commercial business, commercial office, or industrial] is identified on the property record card maintained by the tax assessor in accordance with the Illinois Real Property Appraisal Manual [(February 1987)], published by the Illinois Department of Revenue, Property Tax Administration Bureau.)

"Public Water Supply" means all mains, pipes and structures through

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which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a "Community Water Supply" or a "Non-Community Water Supply". (Section 3.28 of the Act)

"Regulated entity" means a facility or unit regulated for groundwater protection by any state or federal agency.

"Regulatory agency" means the Illinois Environmental Protection Agency, Department of Public Health, Department of Agriculture, Department of Mines and Minerals, and the Office of State Fire Marshal.

"Regulated Recharge Area" means a compact geographic area, as determined by the Board pursuant to Section 17.4 of the Act, the geology of which renders a portable resource groundwater particularly susceptible to contamination. (Section 3.67 of the Act)

"Resource Groundwater" means groundwater that is presently being, or in the future is capable of being, put to beneficial use by reason of being of suitable quality. (Section 3.66 of the Act)

"Setback Zone" means a geographic area, designated pursuant to this Act, containing a potable water supply well or a potential source or potential route having a continuous boundary, and within which certain prohibitions or regulations are applicable in order to protect groundwaters. (Section 3.61 of the Act)

"Site" means any location, place, tract of land and facilities, including but not limited to, buildings and improvements used for the purposes subject to regulation or control by the Act or regulations thereunder. (Section 3.43 of the Act)

"Spring" means a natural surface discharge of an aquifer from rock or soil.

"Threshold dose" means the lowest dose of a chemical at which a specified measurable effect is observed and below which it is not observed.

"Treatment" means the technology, treatment techniques, or other procedures for compliance with 35 Ill. Adm. Code: Subtitle F.

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"Unit" means any device, mechanism, equipment, or area (exclusive of land utilized only for agricultural production). (Section 3.62 of the Act)

"USEPA" or "U.S. EPA" means the United States Environmental Protection Agency.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

SUBPART B: GROUNDWATER CLASSIFICATION

Section 620.230 Class III: Special Resource Groundwater

Except as provided in Section 620.250, Special Resource Groundwater is: Groundwater that is determined by the Board, pursuant to the procedures set forth in Section 620.260, to be:

- 1) Demonstrably unique (e.g., irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water quality standard specified in Subpart D; or
 - 2) Vital for a particularly sensitive ecological system.
- Groundwater that contributes to a dedicated nature preserve that is listed by the Agency as set forth below:
- 1) A written request to list a dedicated nature preserve under this subsection must contain, at a minimum, the following information:
 - A) A general description of the site and the surrounding land use;
 - B) A topographic map or other map of suitable scale denoting the location of the dedicated nature preserve;
 - C) A general description of the existing groundwater quality at and surrounding the dedicated nature preserve;
 - D) A general geologic profile of the dedicated nature preserve based upon the most reasonably available information, including but not limited to geologic maps and subsurface groundwater flow directions; and
 - E) A description of the interrelationship between groundwater and the nature of the site.
 - 2) Upon confirmation by the Agency of the technical adequacy of a written request, the Agency shall publish the proposed listing of the dedicated nature preserve in the Environmental Register for a 45-day public comment period. Within 60 days after the close of the public comment period, the Agency shall either publish a final listing of the dedicated nature preserve in the Environmental Register or provide a written response to the requestor specifying the reasons for not listing the dedicated nature preserve.
 - 3) At least once annually, the Agency shall publish in the

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Environmental Register a complete listing of all dedicated nature preserves listed under this subsection (b).
 4) For purposes of this Section the term "dedicated nature preserve" means a nature preserve that is dedicated pursuant to the Illinois Natural Areas Preservation Act [525 ILCS 30] (4411--Rev. Stat--1989--ch.105, pars. 761-et-seq.,

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 620.260 Reclassification of Groundwater by Adjusted Standard

Any person may petition the Board to reclassify a groundwater in accordance with the procedures for adjusted standards specified in Section 28.1 of the Act and 35 Ill. Adm. Code 106-Subpart G. In any proceeding to reclassify specific groundwater by adjusted standard, in addition to the requirements of 35 Ill. Adm. Code 106-Subpart G, and Section 28.1(c) of the Act, the petition shall, at a minimum, contain information to allow the Board to determine:

- a) The specific groundwater for which reclassification is requested, including but not limited to geographical extent of any aquifers, depth of groundwater, and rate and direction of groundwater flow and that the specific groundwater exhibits the characteristics of the requested class as set forth in Section 620.210(b), 620.220(b), 620.230, or 620.240;
- b) Whether the proposed change or use restriction is necessary for economic or social development, by providing information including, but not limited to, the impacts of the standards on the regional economy, social benefits such as loss of jobs or closing of facilities, and economic analysis contrasting the health and environmental benefits with costs likely to be incurred in meeting the standards would be beneficial or necessary;
- c) Existing and anticipated uses of the specific groundwater;
- d) Existing and anticipated quality of the specific groundwater;
- e) Existing and anticipated contamination, if any, of the specific groundwater;
- f) Technical feasibility and economic reasonableness of eliminating or reducing contamination of the specific groundwater or of maintaining existing water quality;
- g) The anticipated time period over which contaminants will continue to affect the specific groundwater;
- h) Existing and anticipated impact on any potable water supplies due to contamination;
- i) Availability and cost of alternate water sources or of treatment for those users adversely affected;
- j) Negative or positive effect on property values; and
- k) For special resource groundwater, negative or positive effect on:
 - 1) The quality of surface waters; and
 - 2) Wetlands, natural areas, and the life contained therein,

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including endangered or threatened species of plant, fish or wildlife listed pursuant to the Endangered Species Act, 16 U.S.C. 1531 et seq., the Illinois Endangered Species Protection Act (415 ILCS 10-1).

(Source: Amended at 21 Ill. Reg. _____, effective _____)

SUBPART C: NONDEGRADATION PROVISIONS FOR APPROPRIATE GROUNDWATERS

Section 620.301 General Prohibition Against Use Impairment of Resource Groundwater

a) No person shall cause, threaten or allow the release of any contaminant to a resource groundwater such that:

- 1) Treatment or additional treatment is necessary to continue an existing use or to assure a potential use of such groundwater; or
- 2) An existing or potential use of such groundwater is precluded.

b) Nothing in this Section shall prevent the establishment of a groundwater management zone pursuant to Section 620.250 or a cumulative impact area within a permitted site.

c) Nothing in this Section shall limit underground injection pursuant to a permit issued by the Agency under the Act or issued by the Department of Mines and Minerals under the Illinois Oil and Gas Act (325 ILCS 725) "An Act in relation to oil, gas, coal and other surface and underground resources and to repeal an Act herein named." (Rev. Stat. 1989, ch. 96, § 1/2, pars. 5493-5495, et seq., as amended).

d) Nothing in this Section shall limit the Board from promulgating nondegradation provisions applicable to particular types of facilities or activities which impact upon groundwater, including but not limited to landfills regulated pursuant to 35 Ill. Adm. Code, Subtitle G.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

SUBPART D: GROUNDWATER QUALITY STANDARDS

Section 620.420 Groundwater Quality Standards for Class II: General Resource Groundwater

a) Inorganic Chemical Constituents

- 1) Except due to natural causes or as provided in Section 620.450 or subsection (a)(3) or (d) of this Section, concentrations of the following chemical constituents must not be exceeded in Class II groundwater:

Constituent	Standard (mg/L)
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Antimony	0.024
Arsenic	0.2
Barium	2
Beryllium	0.05
Cadmium	0.05
Chromium	1
Cobalt	1
Cyanide	0.6
Fluoride	4.0
Lead	0.1
Mercury	0.01
Nitrate as N	100
Thallium	0.02

- 2) Except as provided in Section 620.450 or subsection (a)(3) or (d) of this Section, concentrations of the following chemical constituents must not be exceeded in Class II groundwater:

Constituent	Standard (mg/L)
-------------	-----------------

Boron	2.0
Chloride	200
Copper	0.65
Iron	5
Manganese	10
Nickel	2
Selenium	0.05
Total Dissolved Solids (TDS)	1,200
Sulfate	400
Zinc	10

- 3) The standard for any inorganic chemical constituent listed in subsection (a)(2) of this Section, for barium, or for pH does not apply to groundwater under fill material or within the upper 10 feet of parent material under such fill material on a site not within the rural property class for which:

A) Prior to the effective date of this Part, surficial characteristics have been altered by the placement of such fill material so as to impact the concentration of the parameters listed in subsection (a)(3) of this Section, and any on-site groundwater monitoring of such parameters is available for review by the Agency.

B) On the effective date of this Part, surficial characteristics are in the process of being altered by the placement of such fill material, which proceeds in a reasonably continuous manner to completion, so as to impact the concentration of the parameters listed in subsection (a)(3) of this Section, and any on-site groundwater

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monitoring of such parameters is available for review by the Agency.

4) For purposes of subsection (a)(3) of this Section, the term "fill material" means clean earth, sand, gravel, slag, ash, clean demolition debris, or other similar materials.

b) Organic Chemical Constituents

1) Except due to natural causes or as provided in Section 620.450 or subsection (b)(2) or (d) of this Section, concentrations of the following organic chemical constituents must not be exceeded in Class II groundwater:

Constituent	Standard (mg/L)
Alachlor*	0.010
Aldicarb	0.015
Atrazine	0.015
Benzene*	0.025
Benz(a)pyrene*	0.002
Carbofuran	0.2
Carbon Tetrachloride*	0.025
Chlordane*	0.01
Dalapon	2.0
Dichloromethane*	0.05
Dibenzofuran	0.06
Di(2-ethylhexyl)phthalate*	0.07
Dinoseb	0.1
Endosulf	0.01
Endrin	0.0005
Heptachlor*	0.002
Heptachlor Epoxide*	0.001
Hexachlorocyclopentadiene	0.5
Lindane (Gamma-Hexachloro cyclohexane)	0.001
2,4-D	0.35
ortho-Dichlorobenzene	1.5
para-Dichlorobenzene	0.375
1,2-Dibromo-3-Chloropropane*	0.002
1,2-Dichloroethane*	0.025
1,1-Dichloroethylene	0.035
cis-1,2-Dichloroethylene	0.2
trans-1,2-Dichloroethylene	0.5
1,2-Dichloropropane*	0.025
Ethylbenzene	1.0
Methoxychlor	0.5
Monochlorobenzene	0.005
Pentachlorophenol*	0.005

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Phenols	0.1
Picloram	5.0
Polychlorinated Biphenyls (PCB's) (as decachlorobiphenyl)*	0.0025
Simazine	0.04
Styrene	0.04
2,4,5-TP	0.25
Tetrachloroethylene*	0.025
Toluene	2.5
Toxaphene*	0.015
1,1,1-Trichloroethane	1.0
1,2,4-Trichloroethane	0.7
1,1,2-Trichloroethane	0.05
Trichloroethylene*	0.025
Vinyl Chloride*	0.01
Xylenes	1.0

*Denotes a carcinogen.

2) The standards for pesticide chemical constituents listed in subsection (b)(1) of this Section do not apply to groundwater within 10 feet of the land surface, provided that the concentrations of such constituents result from the application of pesticides in a manner consistent with the requirements of the Federal Insecticide, Fungicide and Rodenticide Act (7 U. S. C. 133, et seq.) and the Illinois Pesticide Act (15 Ill. Rev. Stat. 499.7-499.7-5-para-093-et-seq) [415 ILCS 60].

c) Complex Organic Chemical Mixtures
Concentrations of the following organic chemical constituents of gasoline, diesel fuel, or heating fuel must not be exceeded in Class II groundwater:

Constituent	Standard (mg/L)
Benzene*	0.025
BTEX	13.525

*denotes a carcinogen.

d) pH
Except due to natural causes, a pH range of 6.5 - 9.0 units must not be exceeded in Class II groundwater that is within 5 feet of the land surface.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

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- a) Groundwater Quality Restoration Standards
- 1) Any chemical constituent in groundwater within a groundwater management zone is subject to this Section.
 - 2) Except as provided in subsections (a)(3) or (a)(4) below, the standards as specified in Sections 620.410, 620.420, 620.430, and 620.440 apply to any chemical constituent in groundwater within a groundwater management zone.
 - 3) Prior to completion of a corrective action described in Section 620.430(a), the standards as specified in Sections 620.410, 620.420, 620.430, and 620.440 are not applicable to such released chemical constituent, provided that the initiated action proceeds in a timely and appropriate manner.
 - 4) After completion of a corrective action as described in Section 620.430(a), the standard for such released chemical constituent is:
 - A) The standard as set forth in Section 620.410, 620.420, 620.430, or 620.440, if the concentration as determined by groundwater monitoring of such constituent is less than or equal to the concentration for the appropriate class set forth in those Sections; or
 - B) The concentration as determined by groundwater monitoring, if such concentration exceeds the standard for the appropriate class set forth in Section 620.410, 620.420, 620.430, or 620.440 for such constituent, and:
 - i) To the extent practicable, the exceedance has been minimized and beneficial use, as appropriate for the class of groundwater, has been returned; and
 - ii) Any threat to public health or the environment has been minimized.
 - 5) The Agency shall develop and maintain a listing of concentrations derived pursuant to subsection (a)(4)(B) above. This list shall be made available to the public and be updated periodically, but no less frequently than semi-annually. This listing shall be published in the Environmental Register.
- b) Coal Reclamation Groundwater Quality Standards
- 1) Any inorganic chemical constituent or pH in groundwater, within an underground coal mine, or within the cumulative impact area of groundwater for which the hydrologic balance has been disturbed from a permitted coal mine pursuant to the Surface Coal Mining Land Conservation and Reclamation Act [325 ILCS 720] (11th Rev. Stat. 1989-ch-96-1/2, para. 299.1-1 et seq.) is subject to this Section.
 - 2) Prior to completion of reclamation at a coal mine, the standards as specified in Sections 620.410(a) and (d), 620.420(a) and (d), 620.430, and 620.440 are not applicable to inorganic constituents and pH.
 - 3) After completion of reclamation at a coal mine, the standards as

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- specified in Sections 620.410(a) and (d), 620.420(a), 620.430, and 620.440 are applicable to inorganic constituents and pH, except:
- A) The concentration of total dissolved solids (TDS) must not exceed:
 - i) The post-reclamation concentration of 3000 mg/L, whichever is less, for groundwater within the permitted area; or
 - ii) The post-reclamation concentration of TDS must not exceed the post-reclamation concentration of 5000 mg/L, whichever is less, for groundwater in underground coal mines and in permitted areas reclaimed after surface coal mining if the Illinois Department of Mines and Minerals and the Agency have determined that no significant resource groundwater existed prior to mining (62 Ill. Adm. Code 1780.21 (f) and (g)); and
 - B) For chloride, iron, manganese and sulfate, the post-reclamation concentration within the permitted area must not be exceeded; and
 - C) For pH, the post-reclamation concentration within the permitted area must not be exceeded within Class I: Potable Resource Groundwater as specified in Section 620.210(a)(4).
 - 4) A refuse disposal area (not contained within the area from which overburden has been removed) is subject to the inorganic chemical constituent and pH requirements of:
 - A) 35 Ill. Adm. Code 302.Subparts B and C, except due to natural causes, for such area that was placed into operation after February 1, 1983, and before the effective date of this Part, provided that the groundwater is a present or a potential source of water for public or food processing;
 - B) Section 620.440(c) for such area that was placed into operation prior to February 1, 1983, and has remained in continuous operation since that date; or
 - C) Subpart D of this Part for such area that is placed into operation on or after the effective date of this Part.
 - 5) For a refuse disposal area (not contained within the area from which overburden has been removed) that was placed into operation prior to February 1, 1983, and is modified after that date to include additional area, this Section applies to the area that meets the requirements of subsection (b)(4)(C) of this Section and the following applies to the additional area:
 - A) 35 Ill. Adm. Code 302.Subparts B and C, except due to natural causes, for such additional refuse disposal area that was placed into operation after February 1, 1983, and before the effective date of this Part, provided that the groundwater is a present or a potential source of water for public or food processing; and

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- B) Subpart D for such additional area that was placed into operation on or after the effective date of this Part.
- 6) A coal preparation plant (not located in an area from which overburden has been removed) which contains slurry material, sludge or other precipitated process material, is subject to inorganic chemical constituent and pH requirements of:
- A) 35 Ill. Adm. Code 302. Subparts B and C, except due to natural causes, for such plant that was placed into operation after February 1, 1983 and before the effective date of this Part, provided that the groundwater is a present or a potential source of water for public or food processing;
- B) Section 620.440(c) for such plant that was placed into operation prior to February 1, 1983, and has remained in continuous operation since that date; or
- C) Subpart D for such plant that is placed into operation on or after the effective date of this Part.
- 7) For a coal preparation plant (not located in an area from which overburden has been removed) which contains slurry material, sludge or other precipitated process material, that was placed into operation prior to February 1, 1983, and is modified after that date to include additional area, this Section applies to the area that meets the requirements of Subpart (b)(6)(C) of this Section and the following applies to the additional area:
- A) 35 Ill. Adm. Code 302. Subparts B and C, except due to natural causes, for such additional area that was placed into operation after February 1, 1983, and before the effective date of this Part, provided that the groundwater is a present or a potential source of water for public or food processing; and
- B) Subpart D for such additional area that was placed into operation on or after the effective date of this Part.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

SUBPART E: GROUNDWATER MONITORING AND ANALYTICAL PROCEDURES

Section 620.505 Compliance Determination

- a) Compliance with standards at a site is to be determined as follows:
- 1) For a structure (e.g., buildings), at the closest practical distance beyond the outermost edge for the structure.
 - 2) For groundwater that underlies a potential primary or secondary source, the outermost edge as specified in Section 620.240(e)(1).
 - 3) For groundwater that underlies a coal mine refuse disposal area, a coal combustion waste disposal area, or an impoundment that contains sludge, slurry, or precipitated process material at a

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- coal preparation plant, the outermost edge as specified in Section 620.240(f)(1) or location of monitoring wells in existence as of the effective date of this Part on a permitted site.
- 4) For a groundwater management zone, as specified in a corrective action process.
- 5) At any point at which groundwater monitoring is conducted using any water well or monitoring well that meets the following conditions:
- A) For a potable well other than a community water supply well, a construction report has been filed with the Department of Public Health for such potable well, or such well has been located and constructed (or reconstructed) to meet the Illinois Water Well Construction Code [415 ILCS 301 (eff. Rev.-Stat.-1989)-ch.-111-1/27-par.1-16-111-et-seq.-as amended and 35 Ill. Adm. Code 920.
- B) For a community water supply well, such well has been permitted by the Agency, or has been constructed in accordance with 35 Ill. Adm. Code 602.115.
- C) For a water well other than a potable water well (e.g., a livestock watering well or an irrigation well), a construction report has been filed with the Department of Public Health and such well has been located and constructed (or reconstructed) to meet the Illinois Water Well Construction Code [415 ILCS 301 (eff. Rev.-Stat.-1989)-ch.-111-1/27-par.1-16-111-et-seq.-as amended and 35 Ill. Adm. Code 920.
- D) For a monitoring well, such well meets the following requirements:
- i) Construction must be done in a manner that will enable the collection of groundwater samples;
 - ii) Casings and screens must be made from durable material resistant to expected chemical or physical degradation that do not interfere with the quality of groundwater samples being collected; and
 - iii) The annular space opposite the screened section of the well (i.e., the space between the bore hole and well screen) must be filled with gravel or sand if necessary to collect groundwater samples. The annular space above and below the well screen must be sealed to prevent migration of water from adjacent formations and the surface to the sampled depth.
- b) For a spring, compliance with this Subpart shall be determined at the point of emergence.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Introduction
- 2) Code citation: 35 Ill. Adm. Code 601
- 3) Section Numbers:
Proposed Action:
601.101
Amendment
601.105
- 4) Statutory authority: 415 ILCS 5/17, 17.5 and 27

5) A complete description of the subjects and issues involved: The Board's responsibility in this matter arises from the Environmental Protection Act (Act) [415 ILCS 5]. The Board is charged therein to "determine, define and implement the environmental control standards applicable in the State of Illinois" (415 ILCS 5/5(b)). More generally, the Board's rulemaking charge is based on the system of checks and balances integral to Illinois environmental governance: the Board bears responsibility for the rulemaking and principal adjudicatory functions; the Agency has primary responsibility for administration of the Act and the Board's regulations, including the regulations today proposed for amendment.

A more detailed description is contained in the Board's opinion of November 21, 1996 in R96-18, which is available from the address below. The R96-18 proceeding, of which the amendments to this Part are just one segment, updates the Board's drinking water rules to incorporate several amendments proposed by the Illinois Environmental Protection Agency (Agency) in its amended petition for general rulemaking filed on September 4, 1996 and its second amended petition filed on October 16, 1996. Affected by the larger R96-18 proceeding are Parts 601, 602, 603, 607, 615, 616, 617 & 620 of Subtitle F.

The majority of the proposed amendments are of a nonsubstantive, "housekeeping" nature, including items such as replacing citations to Illinois Revised Statutes with citations to Illinois Compiled Statutes. The proposed amendments also contain two substantive items. The first would allow the Agency to issue construction permits notwithstanding the fact that a public water supply is on the restricted status list for a violation of the radium maximum concentration level (MCL). The second would, through revision of the authority note for the groundwater quality regulations, note that the groundwater regulations were adopted pursuant to the Act.

In particular, the amendments to Part 601 make a number of corrections and updates to the text of the rules, such as converting phrases to standard usage and converting references to the current statute titles and citations.

- 6) Will these proposed amendments replace emergency amendments currently in

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- effect? No
- 7) Does this rulemaking contain an automatic re-eval date? No
- 8) Do these proposed amendments contain inaccuracies by reference? No
- 9) Are there any other amendments pending on this Part? No

10) Statement of statewide policy objectives: This rulemaking is authorized by Sections 17 and 27 of the Environmental Protection Act. The statewide policy objectives are set forth in Section 11 of that Act. Although the nature of the present amendments is intended to make corrections to and update the existing text or to relax an existing regulatory burden, this rulemaking may impose mandates on units of local government to the extent they supply drinking water to at least 25 of the same persons over 6 months per year.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference booklet R96-18 and be addressed to:

Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601
312-814-6931

Direct all questions to Michael J. McCanbridge at 312-814-6924.

Request copies of the Board's opinion and order from Victoria Aygeman at 312-814-3620.

- 12) Initial regulatory flexibility analysis:

A) Types of small businesses affected: This rulemaking will affect only those small businesses that supply drinking water to at least 25 of the same persons over 6 months per year.

B) Reporting, bookkeeping or other procedures required for compliance: The existing drinking water rules impose significant reporting, bookkeeping, and other procedures on small businesses that supply drinking water to at least 25 of the same persons over 6 months per year. Although the nature of the present amendments is intended to make corrections to and update the existing text or to relax an existing regulatory burden, this rulemaking may increase the regulatory burden on small businesses.

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C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require small businesses that supply drinking water to at least 25 of the same persons over 6 months per year to employ the services of an attorney, certified public accountant, chemist and registered professional engineer. Although the nature of the present amendments is intended to make corrections to and update the existing text or to relax an existing regulatory burden, this rulemaking may increase the regulatory burden on small businesses.

13) Regulatory Agenda on which this rulemaking was summarized: July 1996

The full text of the proposed amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER 1: POLLUTION CONTROL BOARD
PART 601
INTRODUCTION

Section
601.101 General Requirements
601.102 Applicability
601.103 Severability
601.104 Analytical Testing
601.105 Definitions
APPENDIX A References to Former Rules

AUTHORITY: Implementing Section 17 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/17 and 27].

SOURCE: Filed with Secretary of State January 1, 1978; amended at 2 Ill. Reg. 36, P. 72, effective August 29, 1978; amended at 3 Ill. Reg. 13, P. 236, effective March 30, 1979; amended and codified 134, Ill. Reg. 11897, effective September 14, 1982; amended at 6 Ill. Reg. 14344, effective November 1, 1987; amended in 84-12 at 14 Ill. Reg. 1379, effective January 8, 1990; amended in 89-5 at 16 Ill. Reg. 1585, effective January 10, 1992; amended in 89-18 at 21 Ill. Reg. _____, effective _____.

Section 601.101 General Requirements

Owners and official custodians of a public water supply in the State of Illinois shall provide pursuant to the Environmental Protection Act [415 ILCS 5/1 fiii-Revs-Stat-1989-chr-111-1/2-pars-1891-et-seq-] (Act), the Pollution Control Board (Board) Rules, and the Safe Drinking Water Act (42 U.S.C. 300f et seq.) continuous operation and maintenance of public water supply facilities so that the water shall be assuredly safe in quality, clean, adequate in quantity, and of satisfactory mineral characteristics for ordinary domestic consumption.

(Source: Amended in at 21 Ill. Reg. _____, effective _____)

Section 601.105 Definitions

For purposes of this Chapter:

"Act" means the Environmental Protection Act, as amended, [415 ILCS 5/1 fiii-Revs-Stat-1989-chr-111-1/2-pars-1891-et-seq-].

"Agency" means the Illinois Environmental Protection Agency.

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"Board" means the Illinois Pollution Control Board.

"Boll Order" means a notice to boil all drinking and culinary water for at least five minutes before use, issued by the proper authorities to the consumers of a public water supply affected, whenever the water being supplied may have become microbiologically bacteriologically contaminated.

"Certified Laboratory" means any laboratory approved by the Agency, of the Illinois Department of Nuclear Safety or the Illinois Department of Public Health for the specific parameters to be examined, as set out in rules adopted pursuant to the Illinois Administrative Procedure Act [5 ILCS 100] (1117-Rev-Stat-1989, ch-1277-paras-1001-et-seq.).

"Chemical Analysis" means analysis for any inorganic or organic substance, with the exception of radiological or microbiological analyses.

"Confined Geologic Formations" are geologic water bearing formations protected against the entrance of contamination by other geologic formations.

"Disinfectant" means any oxidant, including but not limited to chlorine, chlorine dioxide, chloramines, and ozone, added to water in any part of the treatment or distribution process, which is intended to kill or inactivate pathogenic microorganisms.

"Dose Equivalent" means the product of the absorbed dose from ionizing radiation and such factors as account for differences in biological effectiveness due to the type of radiation and its distribution in the body as specified by the International Commission on Radiological Units and Measurements (ICRU).

"Gross Alpha Particle Activity" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample.

"Gross Beta Particle Activity" means the total radioactivity due to beta particle emission as inferred from measurements on a dry sample.

"Groundwater" means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure. (Section 3.64 of the Act)

"Halogen" means one of the chemical elements chlorine, bromine or iodine.

"Man-Made Beta Particle and Photon Emitters" means all radionuclides

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emitting beta particles and/or photons listed in Maximum Permissible Body Burdens and Maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure, National Bureau of Standards (NBS) Handbook 69, except the daughter products of thorium-232, uranium-235 and uranium-238.

"Maximum Residence Time Concentration (MRTC)" means the concentration of total trihalomethanes found in a water sample taken at a point of maximum residence time in the public water supply distribution system.

"Maximum Total Trihalomethane Potential (MTP)" means the maximum concentration of total trihalomethanes produced in a given water containing a disinfectant residual after 7 days at a temperature of 25° C or above.

"Official Custodian" means any officer of an organization which is the owner or operator of a public water supply, and who has direct administrative responsibility for the supply.

"Persistent Contamination" exists when analysis for total coliform is positive in one or more samples of a routine sample set, and when three or more subsequent repeat check samples indicate the presence of contamination.

"Picocurie (pci)" means that quantity of radioactive material producing 2.22 nuclear transformations per minute.

"Point of Maximum Residence Time" means that part of the active portion of the distribution system remote from the treatment plant where the water has been in the distribution system for the longest period of time.

"Recurring Contamination" exists when analysis of total coliform is positive in one or more samples of a routine sample set, if this occurs four or more times in a twelve consecutive month period calendar-year.

"Rem" means the unit of dose equivalent from ionizing radiation to the total body or any internal organ or organ system. A "millirem (mrem)" is 1/1000 of a rem.

"Sell Re-sett Water" means to deliver or provide potable water, obtained from a public water supply subject to these regulations, to the consumer, who is then individually or specifically billed for the water service, or where any monetary assessment is levied or required and specifically used for water service. Water supply facilities owned or operated by political subdivisions, homeowners associations, and not-for-profit associations, as well as privately owned utilities

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regulated by the Illinois Commerce Commission, are considered to sell water whether or not a charge is specifically made for water.

"Service Connection" is the opening, including all fittings and appurtenances, at the water main through which water is supplied to the user.

"Supply" means a public water supply.

"Surface Water" means all tributary streams and drainage basins, including natural lakes and artificial reservoirs, which may affect a specific water supply above the point of water supply intake.

"Surface Water Supply Source" means any surface water used as a water source for a public water supply.

"Total Trihalomethanes (TTHM)" means the sum of the concentration in milligrams per liter of the trihalomethane compounds trichloromethane (chloroform), dibromochloromethane, bromodichloromethane and tribromomethane (bromoform), rounded to two significant figures.

"Trihalomethane (THM)" means one of the family of organic compounds named as derivatives of methane, wherein three of the four hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure.

"Water Main" means any pipe for the purpose of distributing potable water which serves or is accessible to more than one property, dwelling, or rental unit, and is exterior to buildings.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

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1) Reading of the Part: Livestock Waste Regulations

2) Code Citation: 35 Ill. Adm. Code 506

3) Section Numbers: Proposed Action:

506.101	New Section
506.102	New Section
506.103	New Section
506.104	New Section
506.201	New Section
506.202	New Section
506.203	New Section
506.204	New Section
506.205	New Section
506.206	New Section
506.207	New Section
506.208	New Section
506.209	New Section
506.301	New Section
506.302	New Section
506.303	New Section
506.304	New Section
506.305	New Section
506.306	New Section
506.307	New Section
506.308	New Section
506.309	New Section
506.310	New Section
506.311	New Section
506.312	New Section
506.313	New Section
506.314	New Section
506.401	New Section
506.402	New Section
506.501	New Section
506.502	New Section
506.503	New Section
506.504	New Section
506.505	New Section
506.601	New Section
506.602	New Section
506.603	New Section
506.701	New Section
506.702	New Section
506.703	New Section

4) Statutory Authority: 415 ILCS 5/27 and 510 ILCS 77/55

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- 5) A Complete Description of the Subjects and Issues Involved: All livestock waste lagoons that are newly constructed or modified and not in service until after the effective date of these rules must be registered with the Department of Agriculture. All lagoons required to be registered must be built in accordance with specific design standards in order to protect Illinois groundwater resources. Specifically, the owner or operator of a livestock waste lagoon, under the supervision of a licensed professional engineer, must drill at least one soil boring on the proposed site of the lagoon to determine the soil and groundwater characteristics. Where aquifer material such as sand is found within 20 feet of the bottom of the proposed lagoon, both groundwater monitoring and a liner is required. Where aquifer material is found between 20 and 30 feet from the bottom of the lagoon, a liner is generally required. Neither groundwater monitoring nor a liner is required if the aquifer material is more than 30 feet from the bottom of the lagoon, unless required by the Department of Agriculture based upon other factors specific to the site. Where a liner is required, the construction or installation of the liner must be conducted under the supervision of a licensed professional engineer who must certify that the liner meets all applicable requirements. Where groundwater monitoring is required, procedures for quarterly groundwater monitoring are specified in the rule, including specific chemical and bacteriological tests. Some of the requirements may be waived by the Department of Agriculture upon a showing that alternative methods will be at least as protective.

Specific requirements in a livestock management facility's waste management plan are set forth to assure the facility is operated in a way to protect the environment. These plans are required for facilities designed for 1000 or more animal units.

A certification procedure is set forth to allow the Department of Agriculture to begin certifying livestock managers at facilities designed for 300 or more animal units.

Penalties are established for noncompliance with the Livestock Management Facilities Act and this Part. Financial responsibility to provide for the closure of the lagoons and the proper disposal of their contents within allotted time must be established and maintained by the owners of new or modified lagoons registered under the Livestock Management Facilities Act. Finally, this Part requires compliance with the setback distances as established in Section 35 of the Livestock Management Facilities Act.

- 6) Will this proposed rule replace an emergency rule currently in effect? Yes (see R97-14 at 20 Ill. Reg. 14903, effective October 31, 1996)

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed rule contain incorporations by reference? Yes

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- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Policy Objectives: These proposed rules are required by the Livestock Management Facilities Act [510 ILCS 77] and do not create or enlarge a state mandate as defined in Section 3(b) of the State Mandate Act [30 ILCS 805/3(b)].

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments concerning this rulemaking should reference R97-15 and be sent to:

Dorothy Gunn
Clerk of the Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

Questions regarding this proposal may be directed to Audrey Lozok-Lawless at (312) 814-6923 or (815) 753-0947.

- 12) Initial Regulatory Flexibility Analysis: This proposal is required pursuant to the Livestock Management Facilities Act.

A) Types of small businesses affected: Any small business with livestock waste lagoons that are new or have been modified and not placed in service as of the effective date of this Part.

B) Reporting, bookkeeping, or other procedures required for compliance: Any existing livestock waste lagoon placed in service after the effective date of this Part is required to be registered with the Illinois Department of Agriculture. Any livestock management facility of 1000 to 7000 animal units is required to prepare, maintain, and implement a waste management plan, which must be available for inspection by the Department of Agriculture. Any livestock management facility with more than 7000 animal units is required to prepare, maintain, implement, and submit to the Department of Agriculture a waste management plan. A separate waste management plan must also be developed for each livestock waste handling facility.

C) Types of professional skills necessary for compliance: Livestock waste handling facilities serving 300 or more animal units must be operated under the supervision of a certified livestock manager, duly certified by the Illinois Department of Agriculture as an operator of a livestock waste handling facility. Services of a licensed professional engineer are also required in the design of lagoons.

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1996

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The full text of the Proposed Rule(s) begins on the next page.

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AGRICULTURE RELATED POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD

PART 506

LIVESTOCK WASTE REGULATIONS

SUBPART A: GENERAL PROVISIONS

Section	
506.101	Applicability
506.102	Severability
506.103	Definitions
506.104	Incorporations by Reference

SUBPART B: STANDARDS FOR LIVESTOCK WASTE LAGOONS

Section	
506.201	Applicability
506.202	Site Investigation
506.203	Registration
506.204	Lagoon Design Standards
506.205	Liner Standards
506.206	Groundwater Monitoring
506.207	Certification of Construction
506.208	Failure to Register or Construct in Accordance with Standards
506.209	Lagoon Closure and Ownership Transfer

SUBPART C: WASTE MANAGEMENT PLAN

Section	
506.301	Purpose
506.302	Scope and Applicability
506.303	Waste Management Plan Contents
506.304	Livestock Waste Volumes
506.305	Nutrient Content of Livestock Waste
506.306	Adjustments to Nitrogen Availability
506.307	Optimum Crop Yields
506.308	Crop Nitrogen Requirements
506.309	Nitrogen Credits
506.310	Records of Waste Disposal
506.311	Approval of Waste Management Plans
506.312	Sludge Removal
506.313	Plan Updates
506.314	Penalties

SUBPART D: CERTIFIED LIVESTOCK MANAGER

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Section
506.401
506.402

Applicability
Procedures

SUBPART E: PENALTIES

Section
506.501
506.502
506.503
506.504
506.505

General
Cease and Desist Order Procedures
Lagoon Registration and Certification Violations
Certified Livestock Manager Violations
Waste Management Plan Violations

SUBPART F: FINANCIAL RESPONSIBILITY

Section
506.601
506.602
506.603

Applicability
Evidence of Financial Responsibility
Level of Surety

SUBPART G: SETBACKS

Section
506.701
506.702
506.703

Applicability
Procedures
Penalties

AUTHORITY: Authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/27] and Section 55 of the Livestock Management Facilities Act and implementing the Livestock Management Facilities Act [P.A. 89-456, effective May 21, 1996, 510 ILCS 77].

SOURCE: Adopted in R97-15 at 21 Ill. Reg. _____, effective _____.

NOTE: In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets; and SUM means the summation series or sigma function as used in mathematics.

SUBPART A: GENERAL PROVISIONS

Section 506.101 Applicability

This Subpart applies to 35 Ill. Adm. Code 506. The applicability of Subpart B, Standards for Livestock Waste Lagoons, is set forth at Section 506.201 of this Part. The applicability of Subpart C, Waste Management Plans, is set forth at Section 506.302 of this Part. The applicability of Subpart D, Certified Livestock Manager, is set forth at Section 506.401 of this Part. The

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applicability of Subpart F, Financial Responsibility, is set forth at Section 506.601 of this Part. The applicability of Subpart G, Setbacks, is set forth at Section 506.701 of this Part.

Section 506.102 Severability

If any provision of this Part or its application to any person or under any other circumstances is adjudged invalid, such adjudication does not affect the validity of this Part as a whole or of any portion not adjudged invalid.

Section 506.103 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part shall be the same as that applied to the same words or terms in the Environmental Protection Act [415 ILCS 5] or the Livestock Management Facilities Act [510 ILCS 77]. For the purposes of this Part, the terms included herein shall have their associated meaning as follows:

"Agency" means the Illinois Environmental Protection Agency. [510 ILCS 77/10.5]

"Animal feeding operation" means a feeding operation as defined in the Illinois Environmental Protection Act and the rules promulgated under that Act concerning agriculture related pollution. [510 ILCS 77/10.7]

"Animal unit" means a unit of measurement for any animal feeding operation calculated as follows:

Brood cows and slaughter and feeder cattle multiplied by 1.0.

Milking dairy cows multiplied by 1.4.

Young dairy stock multiplied by 0.6.

Swine weighing over 55 pounds multiplied by 0.4.

Swine weighing under 55 pounds multiplied by 0.03.

Sheep, lambs, or goats multiplied by 0.1.

Horses multiplied by 2.0.

Turkeys multiplied by 0.02.

Laying hens or broilers multiplied by 0.01 (if the facility has continuous overflow watering).

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Laying hens or broilers multiplied by 0.03 (if the facility has a liquid manure handling system).

Ducks multiplied by 0.02. [510 ILCS 77/10.10]

"Aquifer material" means sandstone which is five feet or more in thickness, or fractured carbonate which is ten feet or more in thickness; or sand, gravel, or sand and gravel, as defined herein, such that there is at least two feet or more present within any five foot section of a soil boring performed in accordance with Section 506.202 of this Part.

"Certified livestock manager" means a person that has been duly certified by the Department as an operator of a livestock waste handling facility. [510 ILCS 77/10.15]

"Department" means the Illinois Department of Agriculture. [510 ILCS 77/10.20]

"Farm residence" means any residence on a farm owned or occupied by the farm owners, operators, tenants, or seasonal or year-round hired workers. For purposes of this definition, a "farm" is the land, buildings, and machinery used in the commercial production of farm products, and "farm products" are those plants and animals and their products which are produced or raised for commercial purposes and include but are not limited to forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock, fruits, vegetables, flowers, seeds, grasses, trees, fish, honey and other similar products, or any other plant, animal, or plant or animal product which supplies people with food, feed, fiber, or fur. [510 ILCS 77/10.23]

"Gravel" or "sand and gravel" means unconsolidated materials that contain a matrix (particles of two millimeters or less) that is consistent with the definition of "sand" and particles larger than two millimeters in size.

"Lagoon" or "Earthen livestock waste lagoon" means any excavated, diked, or walled structure or combination of structures designed for biological stabilization and storage of livestock wastes. A lagoon does not include structures such as manufactured slurry storage structures or pits under buildings as defined in rules under the Environmental Protection Act concerning agriculture related pollution. [510 ILCS 77/10.25]

"Licensed Professional Engineer" means a person, corporation or partnership licensed under the laws of the State of Illinois to practice professional engineering. [415 ILCS 5/57.2]

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"Livestock management facility" means any animal feeding operation, livestock shelter, or on-farm milking and accompanying milk-handling area. Two or more livestock management facilities under common ownership, where the facilities are not separated by a minimum distance of 1/4 mile, and that share a common livestock waste handling facility shall be considered a single livestock management facility. A livestock management facility at educational institutions, livestock pasture operations, where animals are housed on a temporary basis such as county and state fairs, livestock shows, race tracks, and horse breeding and training farms, and market holding facilities are not subject to the Livestock Management Facilities Act or the requirements of this Part. [510 ILCS 77/10.30]

"Livestock pasture operation" means a lot or facility (other than an aquatic animal production facility) where:

Crops, vegetation, forage growth, or post-harvest residues that are grown in place are sustained in the normal growing season over a substantial portion of the lot or facility; and

Animals are not continuously confined or enclosed in a covered structure.

"Livestock waste" means livestock excreta and associated losses, bedding, wash waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto an animal feeding operation, and other materials polluted by livestock. [510 ILCS 77/10.35]

"Livestock waste handling facility" means individually or collectively those immovable constructions or devices, except sewers, used for collecting, pumping, treating, or disposing of livestock waste or for the recovery of by-products from the livestock waste. Two or more livestock waste handling facilities under common ownership and where the facilities are not separated by a minimum distance of 1/4 mile shall be considered a single livestock waste handling facility. [510 ILCS 77/10.40]

"Modified" means structural changes to a lagoon that increase its volumetric capacity. [510 ILCS 77/10.43]

"New facility" means a livestock management facility or a livestock waste handling facility the construction or expansion of which is commenced on or after the effective date of the Livestock Management Facilities Act. Expanding a facility where the fixed capital cost of new components constructed within a 2-year period does not exceed 50% of the fixed capital cost of a comparable entirely new facility shall not be deemed a new facility as used in the Livestock Management

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Facilities Act. [510 ILCS 77/10.45]

"Non-farm residence" means any residence which is not a farm residence. [510 ILCS 77/10.47]

"Owner or operator" means any person who owns, leases, controls, or supervises a livestock management facility or livestock waste-handling facility. [510 ILCS 77/10.50]

"Person" means any individual, partnership, co-partnership firm, company, corporation, association, joint stock company, trust, estate, political subdivision, State agency, or any other legal entity or their legal representative, agent, or assigns. [510 ILCS 77/10.55]

"Placed in service" means the placement of livestock waste in a livestock waste lagoon upon the completion of construction or modification in accordance with the requirements of this Part.

"Populated area" means any area where at least 10 inhabited non-farm residences are located or where at least 50 persons frequent a common place of assembly or a non-farm business at least once per week. The existence of a populated area shall be determined by identifying the area around the livestock management or livestock waste handling facility delineated by a distance equal to the applicable setback distance; identifying the number of residences or the existence of a non-farm business or the existence of a common place of assembly; and comparing the appropriate number of respective units determined to be present within the setback distance. The provision that qualifies a common place of assembly or a non-farm business based on 50 persons or more frequenting the said place once per week shall include places that operate less than 52 weeks per year, such as schools with seasonal vacation periods and businesses or other places which experience seasonal shutdowns. [510 ILCS 77/10.60]

"Residence" means a house or other structure, including all attachments to the house or structure, which is used as a place of human habitation.

"Sand" means unconsolidated materials, where 70% or more of the particles are of size 0.06 millimeters to 2.00 millimeters, and which according to the USDA soil texture classification scheme includes soil textures of sand, and loamy sand, and portions of sandy loam and clay loam.

Section 506.104 Incorporations by Reference

- a) The Board incorporates the following materials by reference:
- 1) APWA. American Public Health Association. 1015 Fifteenth Street,

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- NW, Washington, DC 20005, (202) 789-5600, "Standard Methods for the Examination of Water and Wastewater", 19th Edition, 1995.
- 2) ASAE. American Society of Agricultural Engineers, 2950 Niles Road, St. Joseph, MI 49085-9659, (616) 429-5585, "Design of Anaerobic Bioractors for Animal Waste Management", ASAE Standards 1992, ASAE EP403.1, 1992, pp. 498-500.
- 3) NRTS. National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4600, "Methods for the Determination of Inorganic Substances in Environmental Samples", EPA Publication No. EPA-600/R-93/100 (August 1993), Doc No. PB 94-120921.
- 4) USDA-NRCS. United States Department of Agriculture - Natural Resources Conservation Service, 1902 Fox Drive, Champaign, IL 61820, "Waste Treatment Lagoon", Illinois Field Office Technical Guide, Section IV, IL359, P. 5.
- b) This Section incorporates no later amendments or editions.

SUBPART B: STANDARDS FOR LIVESTOCK WASTE LAGOONS

Section 506.201 Applicability

- a) This Subpart applies to any lagoon that is new or modified and has not been placed in service as of the effective date of this Part.
- b) For the purposes of this Subpart the number of animal units at a livestock management facility is the maximum design capacity of the livestock management facility.
- c) In addition, a lagoon registered and certified pursuant to the emergency rules adopted in 89-14 at 20 Ill. Reg. 14903, effective October 31, 1996 shall be considered as registered and certified pursuant to this Subpart.

Section 506.202 Site Investigation

- a) The owner or operator of a new or modified livestock waste lagoon shall conduct a site investigation in accordance with the requirements of this Section to determine if aquifer material is present (or not present) within 50 feet of the planned bottom of the lagoon.
- b) The owner or operator shall perform one or more soil borings which shall be located within the final lagoon area or within 20 feet of the final exterior berm toe. The boring shall be performed to determine the presence of aquifer material as follows:
 - 1) The soil boring shall extend to a depth that includes 50 feet from the bottom of lagoon native soil or to bedrock;
 - 2) If bedrock is encountered, additional soil borings may be necessary to verify the presence of aquifer material;
 - 3) Continuous samples shall be recovered from each soil boring; and
 - 4) Upon completion, the boring(s) shall be properly abandoned and sealed pursuant to the Illinois Water Well Construction Code at

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77 Ill. Adm. Code 920.120.

- c) As an alternative to performing the soil boring(s) required under subsection (b) of this Section, the owner or operator of a livestock waste lagoon may propose to the Department to utilize alternative information sources. The Department shall evaluate the proposal; shall determine whether the alternative information source will result in a site investigation that will be at least as protective of the groundwater, surface water and the structural integrity of the livestock waste management facility as would have resulted from data resulting from soil borings; and shall notify the owner or operator of the Department's finding.
- d) The site investigation in accordance with subsection (b) or (c) of this Section shall be conducted under the direction of a Licensed Professional Engineer or Registered Professional Geologist. Upon completion of the site investigation as required under subsection (b) or (c) of this Section, the supervising Licensed Professional Engineer or Registered Professional Geologist shall certify that the site investigation meets all the applicable requirements of this Section, and whether aquifer material shall be considered present (or not present) within 50 feet of the planned bottom of the lagoon in accordance with Section 506.203 of this Part.

Section 506.203 Registration

- a) Prior to new construction or modification of any earthen livestock waste lagoon after the effective date of this Part, such earthen livestock waste lagoon shall be registered by the owner or operator with the Department on a form provided by the Department in accordance with the requirements of this Section. Lagoons constructed prior to the effective date of this Part may register with the Department at no charge. (510 ILCS 77/15(b))
- b) The registration form, accompanied by a \$50 fee, shall include the following:

- 1) Name(s) and address(es) of the owner and operator who are responsible for the livestock waste lagoon;
- 2) general location of lagoon;
- 3) design construction plans and specifications (including a lagoon plot plan with dimensions and elevations);
- 4) specific location information (noted on a facility site map or the lagoon plot plan):
 - A) The location and distance to the nearest private or public potable well;
 - B) The location and distance to the nearest occupied private residence (other than any occupied by the owner or operator);
 - C) The location and distance to the nearest stream;
 - D) The location and distance to the nearest populated area;
 - E) The location and associated distance to the nearest

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- abandoned or plugged well, drainage well or injection well; and
- F) The location of any subsurface drainage lines within 100 feet of the lagoon;
- 5) Anticipated beginning and ending dates of lagoon construction;
- 6) Type of livestock and number of animal units;
- 7) A certification by the supervising Licensed Professional Engineer or Registered Professional Geologist, accompanied by supporting justification and data, certifying that the site investigation meets all the applicable requirements of Section 506.202 of this Part, whether aquifer material is considered present (or not present) within 50 feet of the planned bottom of the lagoon; and
- 8) Where applicable, a copy of the synthetic liner manufacturer's compatibility statement and liner maintenance guidelines. (510 ILCS 77/15 (b))
- c) The Department upon receipt of a livestock waste lagoon registration form shall review the form to determine that all required information has been provided. The person filing the registration shall be notified within 15 working days of receipt by the Department that registration is complete or that clarification information is needed. No later than 10 working days after the receipt of the clarification information, the Department shall notify the owner or operator that registration is complete or that additional clarification information is needed. (510 ILCS 77/15 (b))
- d) The Department may, as a condition of the issuance of a livestock waste lagoon registration, conduct periodic site inspections of a livestock waste lagoon to assess its degree of compliance with the requirements of the Livestock Management Facilities Act (510 ILCS 77) and the requirements of this Part. The person making any inspection shall comply with reasonable animal health protection procedures as requested by the owner or operator. (510 ILCS 77/15 (b))

Section 506.204 Lagoon Design Standards

- a) The owner or operator of any livestock waste lagoon subject to this Part shall construct or modify the lagoon in accordance with:
- 1) "Design of anaerobic lagoons for animal waste management", ASAE Engineering Practice 403.1; or the guidelines published by the United States Department of Agriculture's Natural Resource Conservation Service titled "Waste Treatment Lagoon", which are incorporated by reference in 35 Ill. Code 506.104; and
 - 2) The additional design standards specified in subsections (c) through (h) of this Section. (510 ILCS 77/15(a))
- b) The Department may require changes in design or additional requirements to protect groundwater, such as extra liner depth or synthetic liners, when it appears groundwater could be impacted. (510 ILCS 77/15(a))
- c) The owner or operator shall conduct site investigation in accordance

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with Section 506.202 of this Part to determine if aquifer material is present (or not present) within 50 feet of the planned bottom of the lagoon.

- d) The owner or operator shall, as a part of the lagoon design, include the use of a liner and implement groundwater monitoring in accordance with the following conditions:
 - 1) If the upper most aquifer material is located above or within 20 feet of the lowest point of the planned lagoon bottom (as measured from the top of any proposed liner), then the lagoon design shall include both a liner and groundwater monitoring.
 - 2) If the uppermost aquifer material is located between 20 to 50 feet from the lowest point of the planned lagoon, the design shall include a liner, but no groundwater monitoring is required.
 - 3) If no aquifer material is located within 50 feet from the lowest point of the planned lagoon (as measured from the top of any proposed liner), then the lagoon design shall require neither a liner nor groundwater monitoring.
- e) If the owner or operator determines that a liner is required for the lagoon pursuant to this Section, the design of the lagoon shall include an in-situ soil liner, borrowed clay or clay/bentonite mixture, or a synthetic liner meeting the requirements of Section 506.205 of this Part; operator determines that groundwater monitoring is required for the lagoon pursuant to this Section, the design of lagoon shall include the implementation of a groundwater monitoring program in accordance with Section 506.206 of this Part.
- g) Any livestock waste lagoon subject to the provisions of this Part shall meet or exceed the following:
 - 1) The minimum berm top width shall be 8 feet;
 - 2) Interior and exterior earthen walls shall have side slopes not steeper than 3 to 1 ratio of horizontal to vertical and a vegetative cover shall be established on any exposed berm areas as appropriate; and
 - 3) The lagoon's total design volume shall be not less than the other berm deterioration;
 - A) A minimum design volume, as calculated pursuant to subsection 4.4.1.1, ASAE EP 403.1, ASAE Standards 1992, p. 499, 499;
 - B) A livestock waste volume, which shall be sufficient to store the waste generated by the facility for a period not less than 270 days as determined from Table 1, ASAE EP 403.1, ASAE Standards 1992, p. 498;
 - C) Runoff and wash down volumes, based on a 6-inch rainfall occurring the lagoon surface and any other areas such as open lots, roofs or other surfaces where collected precipitation is directed into the lagoon plus the volume of any wash down

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liquids utilized within the facility which are also directed into the lagoon; and

- D) A sludge accumulation volume, as calculated pursuant to subsection 4.4.1.4, ASAE EP 403.1, ASAE Standards 1992, p. 499;
- 4) In addition to the lagoon's total design volume, a freeboard shall be provided as follows:
 - A) For lagoons serving a livestock management facility with a maximum design capacity of less than 300 animal units and the lagoon does not collect runoff from areas other than the exposed surface of the lagoon (including associated interior berm slopes and flat berm top areas), the top of the settled embankment shall be not less than 1 foot above the fluid surface level of the lagoon total design volume; or
 - B) For all other lagoons, the top of the settled embankment shall be not less than 2 feet above the fluid surface level of the lagoon total design volume;
- 5) Subsurface drainage lines in the immediate area of the livestock waste lagoon shall be removed or relocated to provide for a minimum separation distance of not less than 50 feet between the outermost extent of the lagoon (exterior toe of the berm) and the subsurface drainage line;
- 6) The minimum separation distance between the outermost extent of a lagoon (exterior toe of the berm) and any potential route of groundwater contamination, as defined in the Illinois Groundwater Protection Act (415 ILCS 55) shall be not less than 100 feet. In addition, the minimum separation distance between the outermost extent of a lagoon (exterior toe of the berm) and a non-potable well, an abandoned or plugged well, drainage well or injection well, shall be not less than 100 feet;
- 7) The design and construction of the lagoon shall include the installation of a lagoon liquid level board or staff gauge within the interior of the liquid storage volume. The liquid level board or staff gauge shall include a mark at the liquid level elevation corresponding to the summation of the sludge volume and minimum design volume and shall be designated as the "STOP PUMPING" elevation. The liquid level board or staff gauge shall also be marked at the liquid level elevation corresponding to the summation of the sludge volume, minimum design volume, and livestock waste volume and shall be designated as the "START PUMPING" elevation;
- 8) Water shall be added to a newly constructed or modified lagoon to a depth of at least 60" of the design depth prior to the initial addition of waste; and
- 9) The location of the lagoon and the associated livestock management facility shall be in compliance with all setback provisions of the Illinois Environmental Protection Act (415 ILCS 51), the Livestock Management Facilities Act (510 ILCS 771), and

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- with this Section shall be conducted under the direction of a Licensed Professional Engineer. Upon completion of construction or installation of the liner, the supervising Licensed Professional Engineer shall certify that the liner meets all the applicable requirements of this Section. Such certification shall include all supporting justification and data.
- e) The owner or operator of a livestock waste lagoon shall submit to the Department a copy of the Licensed Professional Engineer's Certification prior to placing the lagoon in service in accordance with Section 506.207 of this Part.
 - f) The owner or operator of each livestock lagoon may, upon written request and with written approval from the Department, deviate from these standards in order to meet site specific objectives. The owner or operator shall demonstrate that such deviation shall be at least as protective of the groundwater, surface water and the structural integrity of the livestock waste management facility as the requirements of this Part. [510 ILCS 77/15(a)]

Section 506.206 Groundwater Monitoring

- a) The owner or operator of any livestock waste lagoon required to implement groundwater monitoring pursuant to Section 506.204(d) of this Part shall implement a monitoring program which meets the requirements of this Section.
- b) The groundwater monitoring network shall consist of a minimum of three monitoring wells on the basis of local groundwater conditions within 20 feet of the exterior toe of the berm with at least two wells down gradient of the lagoon. For the purposes of groundwater monitoring network design, multiple cell lagoons shall be considered as a single lagoon.
- c) Monitoring wells shall be installed in accordance with the following:
 - 1) The requirements of Illinois Water Well Construction Code at 77 Ill. Adm. Code 920.170;
 - 2) The top of the well screen shall be set at the estimated seasonal low water table elevation;
 - 3) Monitoring wells shall utilize a five foot screened interval; and
 - 4) The screen shall be set in a sand pack of no less than five feet and no greater than seven feet.
- d) Prior to placing the lagoon in service, water level measurements shall be made at each monitoring well to establish the local groundwater gradient at the lagoon site.
- e) Monitoring wells shall be sampled once prior to placing the lagoon in service and quarterly thereafter. The samples shall be collected and analyzed consistent with the methods specified in Section 506.104 of this Part for each of the following:
 - 1) Nitrate-nitrogen;
 - 2) Phosphate-phosphorus;

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- the rules promulgated thereunder.
- h) The owner or operator of the earthen livestock lagoon may, upon written request and with written approval from the Department, deviate from these standards in order to meet site specific objectives. The owner or operator shall demonstrate that such deviation shall be at least as protective of the groundwater, surface water and the structural integrity of the livestock waste management facility as the requirements of this Part. [510 ILCS 77/15(a)]

Section 506.205 Liner Standards

- a) The design of a liner constructed from in-situ soils, borrowed clay or a clay/bentonite mixture, or a synthetic liner pursuant to Section 506.204(d) of this Part shall comply with the requirements of this Section.
- b) A liner constructed using in-situ soil or borrowed clay or clay/bentonite mixtures shall meet the following standards:
 - 1) The minimum liner thickness shall be 2 feet;
 - 2) The liner shall be constructed in lifts not to exceed 6 inches in thickness;
 - 3) The liner shall be compacted to achieve a hydraulic conductivity equal to or less than 1×10^{-7} centimeters/second; and
 - 4) The construction and compaction of the liner shall be carried out to reduce void spaces and allow the liner to support the loadings imposed by the waste disposal operation without settling.
- c) Any synthetic liner used in the construction of a livestock lagoon shall meet the following standards:
 - 1) The liner shall be designed to perform equivalent to or better than a liner that conforms to subsection (b) of this Section;
 - 2) The liner manufacturer shall provide to the owner or operator the liner maintenance guidelines and shall certify that the liner is chemically compatible with:
 - A) The livestock waste being stored; and
 - B) The supporting soil materials;
 - 3) The liner shall be supported by a compacted base free from sharp objects;
 - 4) The liner shall have sufficient strength and durability to function at the site for the design period under the maximum expected loadings imposed by the waste and equipment and stresses imposed by settlement, temperature, construction and operation;
 - 5) The liner seams shall be made in the field according to the manufacturer's specifications. All sections shall be arranged so that the use of field seams is minimized and seams are oriented in the direction subject to the least amount of stress; and
 - 6) The owner or operator shall maintain a copy of the manufacturer's compatibility statement and liner installation and maintenance guidelines at the facility.
- d) The design, construction and installation of the liner in accordance

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- 3) Chloride;
- 4) Sulfate;
- 5) Ammonia-nitrogen;
- 6) Escherichia coli or fecal coliform; and
- 7) Fecal Streptococcus.

The Department may collect and analyze samples or split samples from monitoring wells installed pursuant to this Section at the Department's discretion. The Department shall provide notice to the owner or operator of the livestock waste lagoon of such activity and shall comply with reasonable animal health protection procedures as requested by the owner or operator. [510 ILCS 77/15(b)]

- f) Analytical results as determined in subsection (e) of this Section shall be submitted to the Department within 45 days after sample collection and shall include a discussion relative to the significance of the results. Such discussion of significance shall include:
 - 1) A comparison of the results to the initial sampling made prior to the lagoon being placed in service; and
 - 2) A description of any proposed response action necessary to mitigate potential impacts to groundwater.

- g) The Department shall review the submittal provided pursuant to subsection (f) of this Section, evaluate the proposed response action, and provide a time frame for the correction of any identified deficiencies. As a result of the evaluation, the Department may approve or modify the monitoring program or response action including, but not limited to, the following:
 - 1) Increase or decrease the monitoring well sampling frequency;
 - 2) Add or delete items from the list of sample analytes; or
 - 3) Require changes to the design, construction or operation of the lagoon or changes in the operation of the livestock management facility which shall be implemented by the owner or operator within the time frame established by the Department.

Failure of the owner or operator to submit the information required pursuant to subsection (f) of this Section or to implement the response action approved or modified by the Department shall be considered as a failure to construct a lagoon in accordance with the requirements of this Part.

- h) The owner or operator of the earthen livestock lagoon may, upon written request and with written approval from the Department, deviate from these standards in order to meet site specific objectives. The owner or operator shall demonstrate that such deviation shall be at least as protective of the groundwater, surface water and the structural integrity of the livestock waste management facility as the requirements of this Part. [510 ILCS 77/15(a)]

Section 506.207 Certification of Construction

- a) The Department shall inspect an earthen livestock waste lagoon at least once during the pre-construction, construction or

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post-construction phase and shall require modifications when necessary to ensure the project will be in compliance with the requirements of this Part. [510 ILCS 77/15(b)]

- b) Upon completion of construction or installation of a liner, the supervising Licensed Professional Engineer shall certify that the liner meets all the applicable requirements of Section 506.205 of this Part. Such certification shall be submitted to the Department prior to placing the lagoon in service and include supporting data and justification.

- c) Upon completion of the construction or modification, but prior to placing the lagoon in service, the owner or operator of the livestock waste lagoon shall certify on a form provided by the Department that the lagoon has been constructed or modified in accordance with the standards set forth in subsection (a) of Section 15 of the Livestock Management Facilities Act [510 ILCS 77/15] and the requirements of this Part and that the information provided on the registration form and other supporting documents submitted by this Part is correct. The certification documents submitted shall include a certification statement and signature. [510 ILCS 77/15(b)]

- d) The owner or operator of the lagoon may proceed to place the lagoon in service no earlier than 10 working days after submitting to the Department a certification of compliance statement. [510 ILCS 77/15(b)]

Section 506.208 Failure to Register or Construct in Accordance with Standards

The owner or operator of any earthen livestock waste lagoon subject to registration that has not been registered or constructed in accordance with standards set forth in subsection (a) of Section 15 of the Livestock Management Facilities Act [510 ILCS 77] and in this Part shall, upon being identified as such by the Department, be given written notice by the Department to register within 10 working days of receipt of the notice. The Department may inspect such lagoon and require compliance in accordance with subsections (a) and (b) of the Livestock Management Facilities Act [510 ILCS 77] and this Part. If the owner or operator of the livestock waste lagoon that is subject to registration fails to comply with the notice, the Department may issue a cease and desist order until such time as compliance is obtained with the requirements of the Livestock Management Facilities Act [510 ILCS 77] and this Part. Failure to construct the lagoon in accordance with the construction plan and Department recommendations is a business offense punishable by a fine of not more than \$5,000. [510 ILCS 77/15(f)]

Section 506.209 Lagoon Closure and Ownership Transfer

- a) Closure: When any earthen livestock waste lagoon is removed from service, it shall be completely emptied. Appropriate closure procedures shall be followed as determined by the requirements of this Part. [510 ILCS 77/15(e)]

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- 1) In the event that any earthen livestock waste lagoon is to be removed from service, the requirements contained in Section 15(e) of the Livestock Management Facilities Act [510 ILCS 77] shall be met, and the owner or operator shall submit a lagoon closure plan to the Department for review and approval. The plan shall provide for the following:

- A) The sampling, analysis and reporting of results to the Department of all remaining livestock waste, sludge and minimum six-inch thickness of soil from throughout the lagoon interior consistent with the requirements of Section 506.312 of this Part;
- B) The removal of all remaining livestock waste including sludge, the removal of a minimum 6 inch thickness of soil from throughout the lagoon interior, and the application of these materials to crop land at agronomic rates consistent with the provisions of the site livestock waste management plan or their otherwise proper disposal;
- C) The removal of all associated appurtenances, including but not limited to transfer lines, ramps, pumping ports and other waste conveyance structures;
- D) The proper management of any impounded precipitation in the remaining excavation if it is not immediately filled and the area immediately returned to its pre-construction condition;
- E) The proper abandonment of any monitoring wells installed pursuant to Section 506.206 of this Part which shall be conducted pursuant to the Illinois Water Well Construction Code at 77 Ill. Adm. Code 920.120; and
- F) A proposed time frame for the completion of the closure activities which will be no greater than two years from the cessation of operation date unless the lagoon is maintained or serviced.

- 2) The Department shall review and approve or request additional information relative to the lagoon closure plan. The Department may also grant a waiver to any of the before-stated closure requirements that will permit the lagoon to be used for an alternative purpose. [510 ILCS 77/15(e)]

- 3) Upon completion of the lagoon closure activities as prescribed by the Department-approved closure plan, the owner or operator shall notify the Department to allow for post closure inspection. The Department shall conduct a site inspection and issue a written notification of closure completion or inform the owner or operator of any unresolved closure issues.

- b) Ownership Transfer: Upon a change in the ownership of a registered earthen livestock lagoon, the new owner shall notify, in writing, the Department of the change within 30 working days of the closing of the transaction. [510 ILCS 77/15(e)]

SUBPART C: WASTE MANAGEMENT PLAN

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Section 506.301 Purpose

Livestock waste management plans shall be prepared by livestock management facility owners or operators to provide for adequate land area for the proper application of livestock waste at rates not to exceed the agronomic nitrogen requirement of the crop to be grown during that growing season.

Section 506.302 Scope and Applicability

- a) A waste management plan shall be prepared according to the requirements contained in Section 20 of the Livestock Management Facilities Act [510 ILCS 77] and in this Subpart. The application of livestock waste to the land is an acceptable, recommended, and established practice in Illinois. However, when livestock waste is not applied in a responsible manner, it may create pollutional problems. It should be recognized that, in most cases, if the agronomic nitrogen rate is met, the phosphorus applied will exceed the crop requirements, but not all of the phosphorus may be available for use by the crop. It will be considered acceptable, therefore, to prepare and implement a waste management plan based on the nitrogen rate. [510 ILCS 77/20(f)]
- b) The livestock management facility owner or operator at a facility of less than 1,000 animal units shall not be required to prepare and maintain a waste management plan. [510 ILCS 77/20(b)]
- c) The livestock management facility owner or operator at a facility of 1,000 or greater animal units but less than 7,000 animal units shall prepare maintain and implement a waste management plan and comply with the following: [510 ILCS 77/20(c)]
 - 1) For facilities which commence operations or reach or exceed 1,000 animal units after the effective date of this Part, the owner or operator shall prepare, maintain, and implement a waste management plan within 60 working days after commencing operations or exceeding 1,000 animal units;
 - 2) Prior to the expiration of the waste management plan preparation period, the owner or operator shall submit to the Department a form certifying that a waste management plan has been prepared. The form shall also list the location of the plan;
 - 3) The waste management plan and records of livestock waste disposal shall be kept on file at the facility for a period of three years and shall be available for inspection by Department personnel during normal business hours; and
 - 4) Notwithstanding the above provisions, a livestock management facility subject to this subsection (c) may be operated on an interim basis but not to exceed six months after the effective date of this Part to allow for the owner or operator of the facility to develop a waste management plan. [510 ILCS 77/20(c)]
- d) The owner or operator of a livestock management facility with 7,000 or greater animal units shall prepare, maintain, implement, and submit to

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the Department the waste management plan for approval and comply with the following:

- 1) For facilities which commence operations after the effective date of this Part, the owner or operator shall submit a waste management plan to the Department. The facility shall not commence operation before the Department approves the plan;
 - 2) For existing facilities that reach or exceed 7,000 animal units through expansion, the owner or operator shall submit to the Department a waste management plan within 60 working days after reaching or exceeding 7,000 animal units for approval by the Department; and
 - 3) The waste management plan and records of livestock waste disposal shall be kept on file at the facility for a period of three years and shall be available for inspection by Department personnel during normal business hours.
- e) A separate waste management plan shall be developed for each livestock waste handling facility. Livestock waste from each different type of livestock waste storage structure or system shall be accounted for in separate waste management plans or as separate sections of one plan. Waste from different types of storage structures may be applied to the same land provided that the nitrogen rate to obtain optimum crop yields is not exceeded.
- f) Notwithstanding the above provisions, a facility owner or operator who prepared a waste management plan pursuant to the emergency amendment adopted in 897-14 at 20 Ill. Reg. 14903, effective October 31, 1996, shall be deemed to have prepared a waste management plan pursuant to this Subpart.
- g) For the purposes of this Subpart, the number of animal units served by a livestock waste handling facility shall be determined as the maximum design capacity of the livestock management facility which is being served by the livestock waste handling facility.

Section 506.303 Waste Management Plan Contents

The Livestock Waste Management Plan shall contain the following items:

- a) Name, address, and phone number of the owner(s) of the livestock facility;
- b) Name, address, and phone number of the manager or operator if different than the owner(s);
- c) Address, phone number, and plat location of the facility, and directions from nearest post office;
- d) Type of waste storage for the facility;
- e) Species, general size, number of animals, and number of animal units at the facility;
- f) Aerial photos and maps outlining fields available and intended for livestock waste applications with available acreage listed and with residences, streams, wells, waterways, lakes, ponds, rivers, drainage ditches, and other water sources indicated;

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- g) For application fields not owned or rented, copies of waste application agreements between the owner or operator of the livestock facility and the owner of the land where livestock waste will be applied;
- h) *An estimate of the volume of waste to be disposed annually (510 ILCS 77/20(f)(1))*;
- i) Cropping schedule for each field for the past year, the current year, and the next two years after the current year;
- j) Optimum crop yields for each crop in each field, verified by yield history, if available;
- k) Nutrient content of the livestock waste;
- l) Livestock waste application methods;
- m) Calculations showing the following:
 - 1) Amount of available livestock waste for application;
 - 2) Amount of nitrogen available for application;
 - 3) Nitrogen loss due to method of application;
 - 4) Amount of plant-available nitrogen including mineralization of organic nitrogen;
 - 5) Amount of nitrogen required by each crop in each field based on optimum crop yields;
 - 6) Nitrogen credits from previous crops, from other sources of fertilizer applied for the growing season, and from any manure applications during the previous three years for each application field;
 - 7) Livestock waste application rate based on nitrogen for each application field; and
 - 8) Land area required for application;
- n) A listing of fields and the planned livestock waste application amounts for each field;
- o) A provision that livestock waste applied within 1/4 mile of any residence not part of the facility shall be injected or incorporated on the day of application. However, livestock management facilities and livestock waste handling facilities that have irrigation systems in operation prior to May 21, 1996, or existing facilities applying waste on frozen ground are not subject to the provisions of this subsection (o). (510 ILCS 77/20(f)(5));
- p) A provision that livestock waste may not be applied within 200 feet of a drainage channel unless the water is upgraded or there is adequate diking and water will be applied within 150 feet of potable water supply wells (510 ILCS 77/20(f)(6));
- q) A provision that livestock waste may not be applied in a 10-year flood plain unless the injection or incorporation method of application is used (510 ILCS 77/20(f)(7));
- r) A provision that livestock waste may not be applied in waterways, however livestock waste may be applied through irrigation systems onto grassed waterways if there is no runoff, the distance from applied livestock waste to surface water is greater than 200 feet, the distance from applied livestock waste to potable water supply wells is

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greater than 150 feet, and precipitation is not expected within 24 hours [510 ILCS 77/20(f)(8)];

- s) A provision that if waste is spread on frozen or snow-covered land, the application will be limited to land areas on which:

- 1) Land slopes are 5% or less; or
 - 2) Adequate erosion control practices exist [510 ILCS 77/20(f)(9)];
- t) For livestock facilities utilizing an earthen lagoon or other earthen waste storage structure, a provision that the owner, operator, or certified livestock manager shall inspect all berm tops, exterior berm sides, and non-submerged interior berm sides for evidence of erosion, burrowing animal activity, and other indications of berm degradation on a frequency of not less than once every two weeks; and
- u) A provision that the livestock waste handling facility owner, operator, or certified manager shall consider the addition of zinc and copper to the analytical list utilized for soil samples collected as part of the normal soil sampling and testing program for crop production from the land where livestock waste is applied. Such results shall become a part of the waste management plan and shall be available for inspection by Department personnel during normal business hours.

Section 506.304 Livestock Waste Volumes

The volume of available livestock waste for application, as required in Section 506.303(m)(1) of this Part, shall be determined from site specific measurements of the waste storage structure. Calculations and a description of the volume determination shall be included in the waste management plan.

Section 506.305 Nutrient Content of Livestock Waste

- a) For new facilities without a waste management plan or facilities where a waste management plan is being initially prepared pursuant to this Part, the owner or operator shall obtain the nitrogen content of the livestock waste, as required in Section 506.303(m)(2) of this Part, from the results of a laboratory analysis of livestock waste samples from the waste storage facility, or from estimated values provided by the University of Illinois Cooperative Extension Service or the Natural Resources Conservation Service of the United States Department of Agriculture.

- b) The livestock waste handling facility owner or operator shall annually obtain a laboratory analysis of the nutrient content of the livestock waste to be applied to land as provided within the waste management plan. Livestock waste shall be sampled and analyzed within 60 working days prior to application of the waste.

- c) Certified livestock manager sampling shall be performed under the direction of a certified livestock manager to ensure a representative sample from the livestock waste storage facility and to preserve the integrity of the sample.

- d) The laboratory analysis of the livestock waste sample shall include,

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but not be limited to, total nitrogen, ammonium nitrogen, total phosphorus, total potassium, copper, and zinc. Results of the analysis shall be included in the waste management plan.

Section 506.306 Adjustments to Nitrogen Availability

Adjustments shall be made to nitrogen availability to account for nitrogen loss from livestock waste due to method of application, as required in Section 506.303(m)(3), and to account for the conversion of organic nitrogen into a plant available form, as required in Section 506.303(m)(4) of this Part. The Department may adopt criteria which set forth the adjustments to nitrogen availability.

Section 506.307 Optimum Crop Yields

- a) The optimum crop yield, as required in Section 506.303(m)(5) of this Part, shall be determined for each field where the livestock waste is to be applied. The optimum crop yield shall be determined by obtaining an average yield over a five year period from the field where livestock waste is to be applied. The following prioritized listing of sources of data shall be utilized to determine average yield. The sources shall be utilized according to the prioritized order:

- 1) Proven yields. The owner or operator shall indicate the method used to determine the proven yield. Data from years with crop disasters may be discarded;
 - 2) Crop insurance yields. A copy of the crop yields shall be included in the plan; or
 - 3) Farm Service Agency - United States Department of Agriculture yields. A copy of the assigned crop yields shall be included in the plan.
- b) Soils based yield data from the Natural Resources Conservation Service of the United States Department of Agriculture shall be used if the owner or operator cannot obtain an optimum crop yield pursuant to subsection (a) of this Section. A soil map of the application areas shall be included in the plan. The optimum crop yield shall be determined by a weighted average of the soil interpretation yield estimates for the areas that will receive livestock waste.

Section 506.308 Crop Nitrogen Requirements

Unless otherwise provided for by Board regulations, the Department may adopt criteria setting forth values for crop nitrogen requirements. These values shall be used by the livestock facility owner or operator in the calculations required in Section 506.303(m)(5) of this Part.

Section 506.309 Nitrogen Credits

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- a) Nitrogen credits shall be calculated by the livestock facility owner or operator, pursuant to Section 506.303(m)(6) of this Part, for nitrogen-producing crops grown the previous year, for other sources of nitrogen applied for the growing season, and for mineralized organic nitrogen in livestock waste applied during the previous three years.
- b) Nitrogen credits shall be calculated by the livestock facility owner or operator for the mineralized organic nitrogen in livestock waste applied during the previous three years at the rate of 50%, 25%, and 12.5%, respectively, of that mineralized during the first year.
- c) Unless otherwise provided for by Board regulations, the Department may adopt criteria setting forth values for nitrogen credits from previous crops.

Section 506.310 Records of Waste Disposal

Records of the livestock waste disposal shall include the following items:

- a) Date of livestock waste application;
- b) The field where livestock waste application was made;
- c) Method of livestock waste application;
- d) Livestock waste application rate;
- e) Number of acres receiving waste; and
- f) Amount of livestock waste applied.

Section 506.311 Approval of Waste Management Plans

a) Department approval of livestock waste management plans shall be based on the following criteria:

- 1) Livestock waste application rate of nitrogen not to exceed the crop nitrogen requirements for optimum yields;
 - 2) Demonstration of adequate land area for livestock waste application based on Section 506.303 of this Part; and
 - 3) Completeness and accuracy of plan contents as specified in Section 506.303 of this Part.
- b) The owner or operator of the livestock management facility shall be notified by the Department within 30 working days after receipt of the livestock waste management plan that the plan has been approved or that further information or changes are needed. The owner or operator shall provide the information or changes within 30 working days.

Section 506.312 Sludge Removal

- a) Within 60 days prior to periodic removal of sludge from a livestock waste storage structure, the livestock facility owner or operator shall test the sludge for nutrient content pursuant to Section 506.305(c) and (d) of this Subpart. Application of the sludge to the land shall not exceed the nitrogen requirement to obtain optimum yield of the crop to be grown.
- b) Prior to the removal of the remaining livestock waste, soil, and

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sludge during a lagoon closure, the waste, soil, and sludge shall be tested for nutrient content pursuant to Section 506.305(c) and (d) of this Subpart. Application of the waste, soil, and sludge to the land shall not exceed the nitrogen requirement to obtain optimum yield of the crop to be grown.

- c) Nitrogen requirements based on optimum yield for the crop to be grown may be met but shall not be exceeded by any combination of the following:
 - 1) Livestock waste applications;
 - 2) Periodic sludge applications; or
 - 3) Remaining livestock waste, soil, or sludge applications during a waste storage structure closure.

Section 506.313 Plan Updates

a) The waste management plan shall be reviewed annually by the livestock facility owner or operator and updated, if necessary, after receipt by the owner or operator of the nutrient content results from the laboratory analysis of the livestock waste as required in Section 506.305(b), (c), and (d) of this Subpart, but prior to the application of the livestock waste to the land. The nitrogen content results from the most recent analysis shall be used when updating the plan.

b) The waste management plan shall also be updated when at least one of the following occurs:

- 1) A change in the amount of land area needed to dispose of the livestock waste based upon a change in the waste volume to be disposed of, nitrogen content of the livestock waste, or other factors;
- 2) A change in land that is available for livestock waste application if the land is not currently included in the waste management plan;
- 3) Method of livestock waste disposal or application changes; or
- 4) Cropping sequence changes which alter the amount of livestock waste to be applied.

Section 506.314 Penalties

Any person who is required to prepare, maintain, and implement a waste management plan and who fails to do so shall be issued a warning letter by the Department for the first violation and shall be given 30 working days to prepare a waste management plan. For failure to prepare, maintain, and implement a waste management plan, the person shall be fined an administrative penalty of up to \$500 by the Department and shall be required to enter into an agreement of compliance to prepare, maintain, and implement a waste management plan within 30 working days. For failure to prepare, maintain, and implement a waste management plan after the second 30 day period or for failure to enter into a compliance agreement, the Department may issue an operational cease and desist order until compliance is attained. (510 ICS 77/20(g))

POLLUTION CONTROL BOARD

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SUBPART D: CERTIFIED LIVESTOCK MANAGER

Section 506.401 Applicability

- a) A livestock waste handling facility serving 300 or greater animal units shall be operated only under the supervision of a certified livestock manager. Notwithstanding the before-stated provision, a livestock waste handling facility may be operated on an interim basis, but not to exceed 6 months, to allow for the owner or operator of the facility to become certified. For the purposes of this Subpart, being operated under the supervision of a certified livestock manager shall mean that the certified livestock manager shall be immediately available to the workers at a livestock waste handling facility either in person or via telecommunications and shall have the ability to be physically present at the livestock waste handling facility within one hour after notification. [510 ILCS 77/30(a)]
- b) Persons may become certified livestock managers by demonstrating an understanding of and competence for the operation of livestock waste handling facilities as established in Section 30 of the Livestock Management Facilities Act [510 ILCS 77] and further described in this Subpart. Livestock managers shall establish or re-establish certification when required to do so in accordance with Section 30 of the Livestock Management Facilities Act [510 ILCS 77].
- c) A livestock manager certified pursuant to the emergency amendment adopted in 897-14 at 20 Ill. Reg. 14903, effective October 31, 1996 shall be considered as certified pursuant to this Subpart.
- d) For the purposes of this Subpart, the number of animal units served by a livestock waste handling facility is the maximum design capacity of the livestock management facility which is being served by the livestock waste handling facility.

Section 506.402 Procedures

In addition to the procedures specifically required under this Subpart, the Department may adopt and promulgate all procedures reasonably necessary to perform its duties and responsibilities under this Subpart.

SUBPART E: PENALTIES

Section 506.501 General

The penalties for violations of the Livestock Management Facilities Act [510 ILCS 77] and this Part shall be those as identified in the Livestock Management Facilities Act and further described in this Part and Subpart. Warning letters and written notices from the Department shall be sent via certified mail to the livestock facility owner or operator.

Section 506.502 Cease and Desist Order Procedures

POLLUTION CONTROL BOARD

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In addition to the procedures specifically required under this Subpart, the Department may adopt and promulgate by rule all cease and desist order procedures reasonably necessary to perform its duties and responsibilities under this Subpart.

Section 506.503 Lagoon Registration and Certification Violations

- a) For violations of lagoon registration and certification requirements which occur during lagoon construction, a cease and desist order to stop construction may be issued by the Department. Changes shall be made to the lagoon by the owner or operator to ensure construction according to the provisions of the Livestock Management Facilities Act and this Part. The cease and desist order shall be canceled by the Department upon submission of the registration materials by the lagoon owner or operator to the Department, and after the Department's review of the construction plans and specifications and lagoon registration materials, and after determination of compliance with the Livestock Management Facilities Act and this Part by the Department.
- b) For violations of lagoon registration and certification requirements which occur after completion of lagoon construction, an operational cease and desist order may be issued by the Department. Any necessary changes shall be made to the lagoon by the lagoon owner or operator to comply with the Livestock Management Facilities Act and this Part. The operational cease and desist order shall be canceled by the Department after the Department determines compliance with the Livestock Management Facilities Act and this Part.

Section 506.504 Certified Livestock Manager Violations

For violations pertaining to the certified livestock manager requirements, an operational cease and desist order may be issued by the Department. Upon operational cease and desist order shall be canceled by the Department upon presentation to the Department of a valid certified livestock manager certificate issued in the name of the owner, operator, or current employee of the livestock facility.

Section 506.505 Waste Management Plan Violations

- a) For violations pertaining to the waste management plan requirements, the Department may issue an operational cease and desist order. The operational cease and desist order procedures may be suspended by the Department upon submittal of a waste management plan by the owner or operator to the Department. The cease and desist order shall be canceled by the Department upon approval of the waste management plan by the Department.
- b) A waste management plan prepared as a result of a warning letter or compliance agreement shall be subject to approval by the Department.
- c) Penalties shall not be imposed for excessive nitrogen application for

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unplanned cropping changes due to weather or other unforeseeable circumstances.

SUBPART F: FINANCIAL RESPONSIBILITY

Section 506.601 Applicability

Owners of new or modified lagoons registered under the provisions of the Livestock Management Facilities Act [510 ILCS 77] shall establish and maintain evidence of financial responsibility to provide for the closure of the lagoons and the proper disposal of their contents within the time provisions outlined in the Livestock Management Facilities Act. [510 ILCS 77/17]

Section 506.602 Evidence of Financial Responsibility

a) Financial responsibility may be evidenced by any combination of the following:

- 1) Commercial or private insurance;
 - 2) Guarantee;
 - 3) Surety bond;
 - 4) Letter of credit; or
 - 5) Certificate of deposit or designated savings account. [510 ILCS 77/17]
- b) Upon a change in the ownership of a livestock management facility or livestock waste handling facility involving a lagoon, the new owner shall establish and maintain evidence of financial responsibility at the same level of surety as the previous owner.

Section 506.603 Level of Surety

- a) The level of surety required shall be determined by rule and be based upon the volumetric capacity of the lagoon [510 ILCS 77/17]
- b) Unless otherwise provided for by Board Regulations, the Department may adopt and promulgate all procedures and criteria reasonably necessary to perform its duties and responsibilities under this Subpart.

SUBPART G: SETBACKS

Section 506.701 Applicability

All new livestock management or livestock waste handling facilities shall comply with the setback distances as established in Section 35 of the Livestock Management Facilities Act [510 ILCS 77] and with the provisions of this Subpart.

Section 506.702 Procedures

- a) Setback category shall be determined by the design capacity in animal

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- b) A setback may be decreased when waivers are obtained from owners of residences that are occupied and located in the setback area. [510 ILCS 77/35(g)]

c) In addition to the procedures specifically required under this Subpart, the Department may adopt and promulgate all procedures reasonably necessary to perform its duties and responsibilities under this Subpart.

Section 506.703 Penalties

a) For violations of the setback distance requirements, the Department may issue one of the following to the owner or operator of the livestock management facility or livestock waste handling facility:

- 1) If during construction, a cease and desist order which prohibits further construction of the livestock management facility or livestock waste handling facility, prohibits entry of livestock into the livestock management facility, and prohibits use of the livestock waste handling facility; or
 - 2) An operational cease and desist order.
- b) A cease and desist order issued by the Department pursuant to subsection (a) of this Section shall be canceled by the Department pursuant to the following:
- 1) Submission to the Department of a valid waiver as provided for in Section 506.702(b) of this Subpart by the livestock management facility owner or operator or the livestock waste handling facility owner or operator; or
 - 2) Verification by the Department of compliance with the appropriate setback distances as described in Section 35 of the Livestock Management Facilities Act [510 ILCS 77/35].

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Operation and Record Keeping
- 2) Code citation: 35 Ill. Adm. Code 607
- 3) Section numbers: Proposed action:
Amendment
607.103
Amendment
607.104
- 4) Statutory authority: 415 ILCS 5/17, 17.5 and 27
- 5) A complete description of the subjects and issues involved:

The Board's responsibility in this matter arises from the Environmental Protection Act (Act) [415 ILCS 5]. The Board is charged therein to "determine, define and implement the environmental control standards applicable in the State of Illinois" [415 ILCS 5/5(b)]. More generally, the Board's rulemaking charge is based on the system of checks and balances integral to Illinois environmental governance: the Board bears responsibility for the rulemaking and principal adjudicatory functions; the Agency has primary responsibility for administration of the Act and the Board's regulations, including the regulations today proposed for amendment.

A more detailed description is contained in the Board's opinion of November 21, 1996 in R96-18, which is available from the address below. The R96-18 proceeding, of which the amendments to this Part are just one segment, updates the Board's drinking water rules to incorporate several amendments proposed by the Illinois Environmental Protection Agency (Agency) in its amended petition for general rulemaking filed on September 4, 1996 and its second amended petition filed on October 16, 1996. Affected by the larger R96-18 proceeding are Parts 601, 602, 603, 607, 615, 616, 617 & 620 of Subtitle F.

The majority of the proposed amendments are of a non-substantive, "housekeeping" nature, including items such as replacing citations to Illinois Revised Statutes with citations to Illinois Compiled Statutes. The proposed amendments also contain two substantive items. The first would allow the Agency to issue construction permits notwithstanding the fact that a public water supply is on the restricted status list for a violation of the radium maximum concentration level (MCL). The second would, through revision of the authority note for the groundwater quality regulations, note that the groundwater regulations were adopted pursuant to the Act.

In particular, the amendments to Part 607 make a number of corrections and updates to the text of the rules, such as converting phrases to standard usage and converting references to the current statute titles and citations.

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- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of statewide policy objectives: This rulemaking is authorized by Sections 17 and 27 of the Environmental Protection Act. The statewide policy objectives are set forth in Section 11 of that Act. Although the nature of the present amendments is intended to make corrections to and update the existing text or to relax an existing regulatory burden, this rulemaking may impose mandates on units of local government to the extent they supply drinking water to at least 25 of the same persons over 6 months per year.
- 11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R96-18 and be addressed to:

Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601
312-814-6931

Direct all questions to Michael J. McCambridge at 312-814-6924.

Request copies of the Board's opinion and order from Victoria Agyeman at 312-814-3620.

- 12) Initial regulatory flexibility analysis:

A) Types of small businesses affected: This rulemaking will affect only those small businesses that supply drinking water to at least 25 of the same persons over 6 months per year.

B) Reporting, bookkeeping or other procedures required for compliance: The existing drinking water rules impose significant reporting, bookkeeping, and other procedures on small businesses that supply drinking water to at least 25 of the same persons over 6 months per year. Although the nature of the present amendments is intended to make corrections to and update the existing text or to relax an existing regulatory burden, this rulemaking may increase the

POLLUTION CONTROL BOARD

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regulatory burden on small businesses.

- C) Types of professional skills necessary for compliance with the existing rules and proposed amendments may require small businesses that supply drinking water to at least 25 of the same persons over 6 months per year to employ the services of an attorney, certified public accountant, chemist and registered professional engineer. Although the nature of the present amendments is intended to make corrections to and update the existing text or to relax an existing regulatory burden, this rulemaking may increase the regulatory burden on small businesses.

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1996

The full text of the proposed amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER 1: POLLUTION CONTROL BOARD

PART 607

OPERATION AND RECORD KEEPING

Section

- 607.101 Protection During Repair Work (Repealed)
607.102 Disinfection Following Repair or Reconstruction (Repealed)
607.103 Emergency Operation
607.104 Cross Connections
607.105 Laboratory Testing Equipment (Repealed)
607.106 Record Maintenance (Repealed)

APPENDIX A

References to Former Rules (Repealed)

AUTHORITY: Implementing Section 17 and authorized by Section 27 of the Environmental Protection Act (415 ILCS 5/17 and 27).

SOURCE: Filed with Secretary of State January 1, 1978; amended and codified at 6 Ill. Reg. 11497, effective September 14, 1982; amended in R88-26 at 14 Ill. Reg. 16512, effective September 20, 1990; amended in R95-17 at 20 Ill. Reg. 14423, effective October 22, 1996; amended in R96-18 at 21 Ill. Reg. _____, effective _____.

Section 607.103 Emergency Operation

- a) Whenever contamination is determined to persist in a public water supply, as demonstrated by microbiological bacteriological analysis results, the owners or official custodians of the supply shall notify all consumers to boil for five minutes all water used for drinking or culinary purposes. This boil order shall remain in effect until microbiological bacteriological samples demonstrate that the water is safe for domestic use, or until appropriate corrective action approved by the Agency is taken. If the owner or official custodian of the supply fails to take such action on his own or at the recommendation of the Agency, the Agency may issue a boil order directly to the consumers affected.
- b) Any emergency which results in water pressures falling below twenty pounds per square inch on any portion of the distribution system shall be reason for immediate issuance of a boil order by the owner or official custodian of the supply to those consumers affected unless:
- 1) There is a historical record of adequate chlorine residual and approved turbidity levels in the general area affected covering at least twelve monthly readings;
 - 2) Samples for bacteriological examination are taken in the affected area immediately and approximately twelve hours later; and
 - 3) Tests for residual chlorine and turbidity taken at not more than

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hourly intervals in the affected area for several hours do not vary significantly from the historical record, if significant decreases in chlorine residual or increase in turbidity occurs, a bell order shall be issued.

- c) Whenever the safety of a supply is endangered for any reason, including but not limited to pollution of hazardous substances, the Agency shall be notified immediately by the owner. Officials shall take or his authorized representative and the supply officials shall take appropriate action to protect the supply. The owner, official custodian or his authorized representative shall notify all consumers of appropriate action to protect themselves against any waterborne hazards. If the owner or official custodian of the supply fails to take such action on his own or at the recommendation of the Agency, the Agency shall notify directly the consumers affected.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 607.104 Cross Connections

- a) No physical connection shall be permitted between the potable portion of a supply and any other water supply not of equal or better bacteriological and chemical quality as determined by inspection and analysis by the Agency, except as provided for in subsection (d) of this Section.
- b) There shall be no arrangement or connection by which an unsafe substance may enter a supply.
- c) Control of all cross-connections to a supply is the responsibility of the owner or official custodian of the supply. If a privately owned water supply source meets the applicable criteria, it may be connected to a water supply upon approval by the owner or official custodian and by the Agency. Where such connections are permitted, it is the responsibility of the public water supply officials to assure submission from such privately owned water supply source or sources samples and operating reports, as required by 35 Ill. Adm. Code 611 as applicable to the cross-connected source.
- d) The Agency may adopt specific conditions for control of unsafe cross-connections, which shall be complied with by the supplies of this State, as applicable. These conditions shall be adopted and/or changed by the Agency as prescribed in 35 Ill. Adm. Code 602.115.
- e) Each community water supply exempted pursuant to 35 Ill. Adm. Code 603.104 603-109 or Section 17(b) of the Act 664-482 shall provide an active program approved by the Agency to continually educate and inform water supply consumers regarding prevention of the entry or contaminants into the distribution system. Conditions under which the Agency will approve this active program shall be adopted or changed by the Agency as prescribed in 35 Ill. Adm. Code 602.115.

POLLUTION CONTROL BOARD

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(Source: Amended at 21 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Ownership and Responsible Personnel

2) Code citation: 35 Ill. Adm. Code 603

3) Section numbers: Proposed action:

603.102 Amendment

603.103 Amendment

603.104 Amendment

4) Statutory authority: 415 ILCS 5/17, 17.5 and 27

5) A complete description of the subjects and issues involved: The Board's responsibility in this matter arises from the Environmental Protection Act (Act) [415 ILCS 5]. The Board is charged therein to "determine, define and implement the environmental control standards applicable in the State of Illinois" [415 ILCS 5/5(b)]. More generally, the Board's rulemaking charge is based on the system of checks and balances integral to Illinois environmental governance: the Board bears responsibility for the rulemaking and principal adjudicatory functions; the Agency has primary responsibility for administration of the Act and the Board's regulations, including the regulations today proposed for amendment.

A more detailed description is contained in the Board's opinion of November 21, 1996 in R96-18, which is available from the address below. The R96-18 proceeding, of which the amendments to this Part are just one segment, updates the Board's drinking water rules to incorporate several amendments proposed by the Illinois Environmental Protection Agency (Agency) in its amended petition for general rulemaking filed on September 4, 1996 and its second amended petition filed on October 16, 1996. Affected by the larger R96-18 proceeding are Parts 601, 602, 603, 607, 615, 616, 617 & 620 of Subtitle F.

The majority of the proposed amendments are of a nonsubstantive, "housekeeping" nature, including items such as replacing citations to Illinois Revised Statutes with citations to Illinois Compiled Statutes. The proposed amendments also contain two substantive items. The first would allow the Agency to issue construction permits notwithstanding the fact that a public water supply is on the restricted status list for a violation of the radium maximum concentration level (MCL). The second would, through revision of the authority note for the groundwater quality regulations, note that the groundwater regulations were adopted pursuant to the Act.

In particular, the amendments to Part 603 make a number of corrections and updates to the text of the rules, such as converting phrases to standard usage and converting references to the current statute titles and citations.

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6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of statewide policy objectives: This rulemaking is authorized by Sections 17 and 27 of the Environmental Protection Act. The statewide policy objectives are set forth in Section 11 of that Act. Although the nature of the present amendments is intended to make corrections to and update the existing text of or to relax an existing regulatory burden, this rulemaking may impose mandates on units of local government to the extent they supply drinking water to at least 25 of the same persons over 6 months per year.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R96-18 and be addressed to:

Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601
312-814-6931

Direct all questions to Michael J. McCambridge at 312-814-6924.

Request copies of the Board's opinion and order from Victoria Ayeyman at 312-814-3620.

12) Initial regulatory flexibility analysis:

A) Types of small businesses affected: This rulemaking will affect only those small businesses that supply drinking water to at least 25 of the same persons over 6 months per year.

B) Reporting, bookkeeping or other procedures required for compliance: The existing drinking water rules impose significant reporting, bookkeeping, and other procedures on small businesses that supply drinking water to at least 25 of the same persons over 6 months per year. Although the nature of the present amendments is intended to make corrections to and update the existing text or to relax an existing regulatory burden, this rulemaking may increase the

POLLUTION CONTROL BOARD

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regulatory burden on small businesses.

- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require small businesses that supply drinking water to at least 25 of the same persons over 6 months per year to employ the services of an attorney, certified public accountant, chemist and registered professional engineer. Although the nature of the present amendments is intended to make corrections to and update the existing text or to relax an existing regulatory burden, this rulemaking may increase the regulatory burden on small businesses.

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1996

The full text of the proposed amendments begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER I: POLLUTION CONTROL BOARD

PART 603

OWNERSHIP AND RESPONSIBLE PERSONNEL

Section

603.101 Ownership

603.102 Responsible Personnel

603.103 Certified Operator

603.104 Registered Person in Responsible Charge

603.105 Notification of Change of Ownership or Responsible Personnel

APPENDIX A

References to Former Rules

AUTHORITY: Implementing Section 17 and authorized by Section 27 of the Environmental Protection Act (415 ILCS 5/17 and 27).

SOURCE: Filed with Secretary of State January 1, 1978; amended and codified at 6 Ill. Reg. 11497, effective September 14, 1982; amended at 896-18 at 21 Ill. Reg. _____, effective _____.

Section 603.102 Responsible Personnel

Each public water supply shall have designated an individual in responsible charge of the operation of that supply properly qualified and registered pursuant to Public Water Supply Operations Act. Amend Act to read: "the operation of a public water supply." [13 ILCS 43] (Eff. Rev. Stat. 1981-CH. 114-2/2; pars. 901 et seq.; thereafter Public Water Supply Operator-Certification Act), with all provisions of the Public Water Supply Operations Act Water Supply Operator-Certification Act complied with.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 603.103 Certified Operator

- a) Each public water supply, unless exempted under Section 603.104, shall have a certified operator, qualified and registered in accordance with the Public Water Supply Operations Act. Amend Act to read: "the operation of a public water supply, designated in responsible charge of the supply's operation." [13 ILCS 43] (Eff. Rev. Stat. 1981-CH. 114-2/2; pars. 901 et seq.; thereafter Public Water Supply Operator-Certification Act).
- b) The owner, official custodian and the certified operator designated in responsible charge shall file a signed statement identifying the certified operator in responsible charge on forms provided by the Agency.
- 1) Both the treatment and distribution facilities of each supply must have responsible personnel indicated.

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- 2) One properly certified operator may supervise both the treatment and distribution facilities of the supply.
- c) Completion of the above forms shall indicate acceptance of the duties and responsibilities for the proper operation and maintenance of the public water supply facilities by both owner or official custodian and certified operator.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 603.104 Registered Person in Responsible Charge

- a) A public water supply may seek an exemption from the requirement of a certified operator in responsible charge.
- b) Each public water supply seeking such exemption shall so request in writing to the Agency.
- c) Each public water supply exempted from the certified operator requirement by the Agency, pursuant to the Public Water Supply Operations Act Water-Supply-Operator-Certification--Law, shall have either a certified operator or person registered in accordance with the Public Water Supply Operations Act Water-Supply-Operator's--Law, designated in responsible charge of the supply's operation.
- d) Each public water supply exempted by the Agency and retaining a registered person in responsible charge shall file with the Agency a signed statement identifying the registered person in responsible charge on forms provided by the Agency. Such statement shall also be signed by the registered person in responsible charge.
- 1) Both the treatment and distribution facilities of each supply must have responsible personnel indicated.
- 2) One properly registered person in responsible charge may supervise both the treatment and distribution facilities of the supply.

- e) Completion of the above forms shall indicate acceptance of the duties and responsibilities for the proper operation and maintenance of the public water supply facilities by both owner or official custodian and registered person in responsible charge.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Permits
- 2) Code citation: 35 Ill. Adm. Code 602
- 3)

<u>Section numbers:</u>	<u>Proposed action:</u>
602.105	Amendment
602.106	Amendment
602.108	Amendment
602.110	Amendment
602.114	Amendment
602.115	Amendment
602.120	Amendment
- 4) Statutory Authority: 415 ILCS 5/17, 17.5 and 27
- 5) A complete description of the subjects and issues involved:

The Board's responsibility in this matter arises from the Environmental Protection Act (Act) (415 ILCS 5). The Board is charged therein to "determine, define and implement the environmental control standards applicable in the State of Illinois" (415 ILCS 5/5(b)). More generally, the Board's rulemaking charge is based on the system of checks and balances integral to Illinois environmental governance; the Board bears responsibility for the rulemaking and principal adjudicatory functions; the Agency has primary responsibility for administration of the Act and the Board's regulations, including the regulations today proposed for amendment.

A more detailed description is contained in the Board's opinion of November 21, 1996 in R96-18, which is available from the address below. The R96-18 proceeding, of which the amendments to this Part are Just one segment, updates the Board's drinking water rules to incorporate several amendments proposed by the Illinois Environmental Protection Agency (Agency) in its amended petition for general rulemaking filed on September 4, 1996 and its second amended petition filed on October 16, 1996. Affected by the larger R96-18 proceeding are Parts 601, 602, 603, 607, 615, 616, 617 & 620 of Subtitle F.

The majority of the proposed amendments are of a non-substantive, "housekeeping" nature, including items such as replacing citations to Illinois Revised Statutes with citations to Illinois Compiled Statutes. The proposed amendments also contain two substantive items. The first would allow the Agency to issue construction permits notwithstanding the fact that a public water supply is on the restricted status list for a violation of the radium maximum concentration level (MCL). The second would, through revision of the authority note for the groundwater quality regulations, note that the groundwater regulations were adopted pursuant to the Act.

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In particular, the amendments to Part 602 make a number of corrections and updates to the text of the rules, such as converting phrases to standard usage and converting references to the current statute titles and citations. Other amendments involve lifting the burden of the restricted stations and standards for issuance rules, as they would otherwise apply to most violations of the radium or gross alpha particle activity MCLs.

- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No

10) Statement of statewide policy objectives: This rulemaking is authorized by Sections 17 and 27 of the Environmental Protection Act. The statewide policy objectives are set forth in Section 11 of the Act. Although the nature of the present amendments is intended to make corrections to and update the existing text or to relax an existing regulatory burden, this rulemaking may impose mandates on units of local government to the extent they supply drinking water to at least 25 of the same persons over 6 months per year.

- 11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R96-18 and be addressed to:

Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601
312-814-6931

Direct all questions to Michael J. McCambridge at 312-814-6924.

Request copies of the Board's opinion and order from Victoria Aggreyman at 312-814-3620.

- 12) Initial regulatory flexibility analysis:

A) Types of small businesses affected: This rulemaking will affect only those small businesses that supply drinking water to at least 25 of the same persons over 6 months per year.

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- B) Reporting, bookkeeping or other procedures required for compliance: The existing drinking water rules impose significant reporting, bookkeeping, and other procedures on small businesses that supply drinking water to at least 25 of the same persons over 6 months per year. Although the nature of the present amendments is intended to make corrections to and update the existing text or to relax an existing regulatory burden, this rulemaking may increase the regulatory burden on small businesses.
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require small businesses that supply drinking water to at least 25 of the same persons over 6 months per year to employ the services of an attorney, certified public accountant, chemist and registered professional engineer. Although the nature of the present amendments is intended to make corrections to and update the existing text or to relax an existing regulatory burden, this rulemaking may increase the regulatory burden on small businesses.

- 13) Regulatory agenda on which this rulemaking was summarized: July 1996

The full text of the proposed amendments begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER I: POLLUTION CONTROL BOARDPART 602
PERMITS

- Section
602.101 Construction Permit
602.102 Operating Permit
602.103 Algalicide Permit
602.104 Emergency Permit
602.105 Standards for Issuance
602.106 Restricted Status
602.107 Signatory Requirement for Permit Applications
602.108 Construction Permit Applications
602.109 Algalicide Permit Applications
602.110 Application Forms and Additional Information
602.111 Filing and Final Action by Agency on Permit Applications
602.112 Duration
602.113 Conditions
602.114 Design, Operation and Maintenance Criteria
602.115 Requirement for As-Built Plans
602.117 Existence of Permit No Defense
602.118 Appeals from Conditions
602.119 Revocations
602.120 Limitations
APPENDIX A References to Former Rules

AUTHORITY: Implementing Section 17 and authorized by Section 27 of the Environmental Protection Act (415 ILCS 5/17 and 27).

SOURCE: Filled with Secretary of State January 1, 1978; amended and codified at 6 Ill. Reg. 11.097, effective September 14, 1982; amended at 8 Ill. Reg. 2157, effective February 1, 1984; emergency amendment at 9 Ill. Reg. 1337A, effective August 16, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 7337, effective April 22, 1986; amended in R36-18 at 21 Ill. Reg. _____, effective _____.

Section 602.105 Standards for Issuance

- a) The Agency shall not grant any construction or operating permit required by this Part, except as otherwise provided in subsection (d) of this Section, unless the applicant submits adequate proof that the public water supply will be constructed, modified or operated in such a manner as to not cause a violation of the Environmental Protection Act (415 ILCS 5/1) (415 Rev-Stat-1901-ch-11-1/2-part-1001-et-seq-7 Act), or of

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this Chapter.

- b) The Agency shall not grant any construction or operating permit required by this Part unless the applicant submits adequate proof that the public water supply facility conforms to the design criteria promulgated by the Agency under Section 39(a) of the Act or Section 602.115 or is based on such other criteria which the applicant proves will produce consistently satisfactory results.
- c) The Agency shall not grant any construction permit required by this Part unless the applicant submits proof that any plan documents required by this Section and Section 602.108 have been prepared by a person qualified under the Illinois Architecture Act (225 ILCS 1001) (411 Rev-Stat-1991-ch-111-part-1201-et-seq-7), the Illinois Professional Engineering Act (225 ILCS 325) (411 Rev-Stat-1991-ch-111-part-5401-et-seq-7), the Illinois Structural Engineering Act (225 ILCS 340) (411 Rev-Stat-1991-ch-111-part-5501-et-seq-7), or any required combination thereof.
- d) Until the effective date of a National Primary Drinking Water Regulation for radium-226, radium-228, or gross alpha particle activity that replaces the National Interim Primary Drinking Water Regulations for these contaminants, adopted by USEPA on July 9, 1976, the Agency shall not deny for the following reasons any construction or operating permit required by this Part:
- 1) the radium-226 level is less than or equal to 20 pCi/L;
 - 2) the radium-228 level is less than or equal to 20 pCi/L; or
 - 3) the gross alpha particle activity level minus the radium-226 level is less than or equal to 15 pCi/L.
- Except as provided in this Section and Section 602.106, all other provisions of this Chapter are applicable to violations of 35 Ill. Adm. Code 611.330.

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

Section 602.106 Restricted Status

- a) Restricted status shall be defined as the Agency determination, pursuant to Section 39(a) of the Act and Section 602.105, that a public water supply facility may no longer be issued a construction permit without causing a violation of the Act or this Chapter.
- b) The Agency shall publish and make available to the public, at intervals of not more than six months, a comprehensive and up-to-date list of supplies subject to restricted status and the reasons why the Agency shall notify the owners or official custodians of supplies when the supply is initially placed on restricted status by the Agency.
- d) Until the effective date of a National Primary Drinking Water Regulation for radium-226, radium-228, or gross alpha particle activity that replaces the National Interim Primary Drinking Water

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Regulations for these contaminants, adopted by USEPA on July 9, 1976, the Agency shall not place public water supplies on restricted status when:

- 1) the radium-226 level is less than or equal to 20 pCi/L;
- 2) the radium-228 level is less than or equal to 20 pCi/L; or
- 3) the gross alpha particle activity level minus the radium-226 level is less than or equal to 15 pCi/L.

Except as provided in this Section and Section 602.105, all other provisions of this Chapter are applicable to violations of 35 Ill. Adm. Code 611.330.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 602.108 Construction Permit Applications

All applications for any construction permit required under this Chapter shall contain, where appropriate, the following information and documents:

- a) A summary of the design basis;
- b) Operation requirements;
- c) General layout;
- d) Detailed plans;
- e) Specifications;
- f) A professional seal to satisfy Section 602.105(c)(4) requirements; and
- g) Any other information required by the Agency for proper consideration of the permit.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 602.110 Algalcide Permit Applications

a) All applications for algalcide permits shall contain:

- 1) the name and certificate number of the certified operator supervising the application of the algalcide;
 - 2) a statement describing the extent of the algae problem, history of any past algae problems, and algalcide treatments, and a description of any fish kills which have resulted from treatments in the past; and
 - 3) a statement of action to support exceeding the limits as stated in 35 Ill. Adm. Code 602. Quality Standards.
- b) After any algalcide permit is issued, and before the permit expires by its stated term, if there is an anticipated change in the operation of the public water supply, in algae growth, which affects the use of the algalcide as outlined in the permit, the public water supply shall submit an application for modification of its permit. This application shall contain all of the information required by this

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subsection (b) and subsection (a) above.
c) Any algalcide permit issued under this Section shall exempt the permittee from obtaining an aquatic pesticide permit as provided in 35 Ill. Adm. Code 652.601.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 602.114 Conditions

In addition to specific conditions authorized under this Part, the Agency may impose such conditions in a permit as may be necessary to accomplish the purposes of the Act and as are not inconsistent with regulations promulgated by the Illinois Pollution Control Board).

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 602.115 Design, Operation, and Maintenance Criteria

a) The Agency may adopt criteria, published in the form of Technical Policy Statements, for the design, operation, and maintenance of public water supply facilities as necessary to insure safe, adequate, and clean water. These criteria shall be revised from time to time to reflect current engineering judgement and advances in the state of the art.

b) Before adopting new criteria or making substantive changes to any Technical Policy Statements, the Agency shall comply with the provisions of the Administrative Procedure Act 15 ILCS 1001 (1111-Rev-Stat-1987-ch-1577-par-1001-et-seq.).

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 602.120 Limitations

Any permit issued under this Part shall not be considered to be valid unless and until all applicable permits from State agencies, including but not limited to those listed below, have been applied for:

AGENCY	PERMIT DESCRIPTION
Illinois Commerce Commission	Certificate of Convenience and Necessity
Dept.-of-Mines-and-Minerals	Well-Drilling
Div.-of-Oil-and-Gas	Change to Existing Waterways
DEPT. OF NATURAL RESOURCES	Office of Water Resources

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Dept.-of-Transportation
Division-of-Water-Resource
Management

(Source: Amended at 21 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Regulated Recharge Areas
- 2) Code citation: 35 Ill. Adm. Code 617
- 3) Section numbers: Proposed action:
617.101 Amendment
617.102 Amendment
- 4) Statutory authority: 415 ILCS 5/17.4 and 27
- 5) A complete description of the subjects and issues involved: The Board's responsibility in this matter arises from the Environmental Protection Act (Act) (415 ILCS 5). The Board is charged therein to "determine, define and implement the environmental control standards applicable in the State of Illinois" (415 ILCS 5/5(b)). More generally, the Board's rulemaking charge is based on the system of checks and balances integrally to Illinois environmental governance; the Board bears responsibility for the rulemaking and principal adjudicatory functions; the Agency has primary responsibility for administration of the Act and the Board's regulations, including the regulations today proposed for amendment.

A more detailed description is contained in the Board's opinion of November 21, 1996 in 896-18, which is available from the address below. The 896-18 proceeding, of which the amendments to this Part are just one segment, updates the Board's drinking water rules to incorporate several amendments proposed by the Illinois Environmental Protection Agency (Agency) in its amended petition for general rulemaking filed on September 4, 1996 and its second amended petition filed on October 16, 1996. Affected by the larger 896-18 proceeding are Parts 601, 602, 603, 607, 615, 616, 617 & 620 of Subtitle F.

The majority of the proposed amendments are of a nonsubstantive, "housekeeping" nature, including items such as replacing citations to Illinois Revised Statutes with citations to Illinois Compiled Statutes. The proposed amendments also contain two substantive items. The first would allow the Agency to issue construction permits notwithstanding the fact that a public water supply is on the restricted status list for a violation of the radium maximum concentration level (MCL). The second would, through revision of the authority note for the groundwater quality regulations, note that the groundwater regulations were adopted pursuant to the Act.

In particular, the amendments to Part 617 make a number of corrections and updates to the text of the rules, such as converting phrases to standard usage and converting references to the current statute titles and citations.

- 6) Will these proposed amendments replace emergency amendments currently in

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affect? No

- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of statewide policy objectives: This rulemaking is authorized by Sections 17.4 and 27 of the Environmental Protection Act. The statewide policy objectives are set forth in Section 11 of that Act. Although the nature of the present amendments is intended to make corrections to and update the existing text or to relax an existing regulatory burden, this rulemaking may impose mandates on units of local government to the extent they supply drinking water to at least 25 of the same persons over 6 months per year.
- 11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R96-18 and be addressed to:

Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601
312-814-6931

Direct all questions to Michael J. McCambridge at 312-814-6924.

Request copies of the Board's opinion and order from Victoria Ayeyman at 312-814-3620.

12) Initial regulatory flexibility analysis:

- A) Types of small businesses affected: This rulemaking will affect only those small businesses that supply drinking water to at least 25 of the same persons over 6 months per year.
- B) Reporting, bookkeeping or other procedures required for compliance: The existing drinking water rules impose significant reporting, bookkeeping, and other procedures on small businesses that supply drink water to at least 25 of the same persons over 6 months per year. Although the nature of the present amendments is intended to make corrections to and update the existing text or to relax an existing regulatory burden, this rulemaking may increase the regulatory burden on small businesses.

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- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require small businesses that supply drinking water to at least 25 of the same persons over 6 months per year to employ the services of an attorney, certified public accountant, chemist and registered professional engineer. Although the nature of the present amendments is intended to make corrections to and update the existing text or to relax an existing regulatory burden, this rulemaking may increase the regulatory burden on small businesses.

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1996
- The full text of the proposed amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER 1: POLLUTION CONTROL BOARD

PART 617
REGULATED RECHARGE AREAS
SUBPART A: GENERAL

Section
617.101 Purpose
617.102 Definitions

AUTHORITY: Implementing and authorized by Sections 17.4 and 27 of the Environmental Protection Act [415 ILCS 5/17.4 and 27].

SOURCE: Adopted in R89-5 at 16 Ill. Reg. 1639, effective January 10, 1992; amended in R96-18 at 21 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 617.101 Purpose

This Part sets out regulated recharge areas as delineated pursuant to Section 17.4 of the Illinois Environmental Protection Act (Act) [415 ILCS 5] ~~that~~ Rev.-Stat.-1969-ch-111-1/2-par.1-168-et-seq.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 617.102 Definitions

Unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part shall be the same as those used in 35 Ill. Adm. Code 615.102, the Act, or the Illinois Groundwater Protection Act [415 ILCS 55] ~~that~~ Rev.-Stat.-1969-ch-111-1/2-par.1-745-et-seq.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Rights and Privileges

2) Code Citation: 20 Ill. Adm. Code 525

3) Section Numbers: Adopted Action:
525.10 Amend
525.15 Amend
525.20 Amend
525.30 Amend
525.40 Amend
525.50 Amend
525.60 Amend
525.100 Amend
525.110 Amend
525.115 Amend
525.120 Amend
525.130 Amend
525.140 Amend
525.150 Amend
525.200 Amend
525.305 Amend
525.310 Amend

4) Statutory Authority: Implementing and authorized by Sections 3-2-2 and 3-7-1 of the Unified Code of Corrections [730 ILCS 5/3-2-2 and 3-7-1].

5) Effective Date of Rule(s) [Amendments, Repealer]: January 1, 1997

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rule amendment, repealer, contain incorporation by reference? No

8) Date Filed in Agency's Principal Office: December 4, 1996

9) Notice(s) of Proposal Published in Illinois Register: February 2, 1996
20 Ill. Reg. 1719

10) Has JCRC issued a Statement of Objections to these rule(s)? No

11) Difference(s) between proposal and final version: Related subsections in Section 525.20(a)(4); clarified language in Section 525.20(b); deleted local Illinois legislators from the definitions of incoming and outgoing privileged mail in Sections 525.110(e)(6) and (f)(6); modified Section 525.150 to clarify the types of telephone numbers to which committed persons may not place calls and to prohibit committed persons from placing calls to long-distance carriers or engaging in call forwarding or conference calls. In Section 525.310, the provision for committed persons

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in the adult division to request a home and family furlough has been deleted as the Department does not grant such furloughs and a code citation has been added.

- 12) Have all the changes raised upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rule (amendment, repealer) replace an emergency rule (amendment, repealer) currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rule(s) (Amendments, Repealer): Visitation procedures have been updated and clarified, including attorney and clergy visits, religious headgear of visitors, and a review of permanent restrictions. Mail procedures have been updated and a provision has been added for inspection of outgoing privileged mail. Rules regarding marriages of committed persons have been updated to reflect current law and procedures.
- 16) Information and questions regarding this adopted rule (amendment, repealer) shall be directed to:
Donald N. Snyder, Jr., Deputy Director
Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield, Illinois 62794-9277
217/522-2666, extension 2082

The full text of the Adopted Rule(s) (Amendments) begins on the next page:

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TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER II: DEPARTMENT OF CORRECTIONS
SUBCHAPTER e: OPERATIONS

PART 525

RIGHTS AND PRIVILEGES

SUBPART A: VISITATION

Section	
525.10	Applicability
525.12	Definitions
525.15	Responsibilities
525.20	Visiting Privileges
525.30	Clergy Visitation
525.40	Attorney Visitation - Adult and Community Services Divisions
525.50	Attorney Visitation - Juvenile Division (Court Agreement)
525.60	Restriction of Visitors

SUBPART B: MAIL AND TELEPHONE CALLS

Section	
525.100	Applicability
525.110	Definitions
525.115	Responsibilities
525.120	Processing of Mail
525.130	Outgoing Mail
525.140	Incoming Mail
525.150	Telephone Privileges

SUBPART C: PUBLICATIONS

Section	
525.200	Applicability
525.202	Definitions
525.205	Responsibilities
525.210	General Guidelines
525.220	Publications Review Committee
525.230	Appeal Process for Non-approved Publications

SUBPART D: MARRIAGE OF COMMITTED PERSONS

Section	
525.300	Applicability
525.302	Definitions
525.305	Responsibilities
525.310	Request for Permission to Marry

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AUTHORITY: Implementing Sections 3-2-2, 3-7-1, 3-7-2, 3-7-4, 3-8-7, and 3-10-8 of the Unified Code of Corrections (730 ILCS 5/3-2-2, 3-7-1, 3-7-2, 3-7-4, 3-8-7, and 3-10-8) and Section 1-3 of the Juvenile Court Act of 1987 (705 ILCS 405/1-3) and authorized by Sections 3-2-2, 3-7-1, and 3-7-4 of the Unified Code of Corrections (730 ILCS 5/3-2-2, 3-7-1, and 3-7-4). Subparts A and C are also implementing Consent Decrees (Willman vs. Rowe, #77 C 1008, N.D. Ill., 1977 and Green vs. Sielaff, #71 C 1403, N.D. Ill., 1973 and amended 1976).

SOURCE: Adopted at 8 Ill. Reg. 14598, effective August 1, 1984; amended at 9 Ill. Reg. 10728, effective August 1, 1985; amended at 11 Ill. Reg. 16134, effective November 1, 1987; amended at 12 Ill. Reg. 9664, effective July 1, 1988; amended at 14 Ill. Reg. 5114, effective April 1, 1990; amended at 14 Ill. Reg. 3583, effective February 20, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10439, effective July 1, 1993; peremptory amendment at 17 Ill. Reg. 1666, effective January 22, 1993; expedited correction at 17 Ill. Reg. 11903, effective January 22, 1993; peremptory amendment at 17 Ill. Reg. 8069, effective May 27, 1993; amended at 20 Ill. Reg. **15960**, effective JAN 01 1994.

SUBPART A: VISITATION

Section 525.10 Applicability

This Subpart applies to the Adult, Juvenile, and Community Services Divisions of the Department of Corrections.

(Source: Amended 1-1-94 at 20 Ill. Reg. **15960**, effective JAN 01 1994)

Section 525.15 Responsibilities

- Unless otherwise specified, the Director or Chief Administrative Officer may delegate responsibilities stated in this Subpart to another person or persons to designate another person or persons to perform the duties specified.
- No other individual may routinely perform duties whenever a Section in this Subpart specifically states the Director or Chief Administrative Officer shall personally perform the duties. However, the Director or Chief Administrative Officer may designate another person or persons to perform the duties during periods of his or her temporary absence or in an emergency.

(Source: Amended at 20 Ill. Reg. **15960**, effective JAN 01 1994)

Section 525.20 Visiting Privileges

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- The Chief Administrative Officer of each correctional facility shall establish regular visiting hours.
 - All rules and regulations pertaining to visiting shall be posted and made available to visitors and committed persons.
 - Visitors who travel great distances to visit a committed person may request extended visits. These requests should be submitted sufficiently in advance to the Chief Administrative Officer for consideration.
 - Visitors shall be subject to search in accordance with 20 Ill. Reg. Code 501.220.
 - Visitors may be permitted to wear religious headgear if:
 - There are no safety or security concerns; and
 - The headgear has been removed and thoroughly searched; and
 - The Director has indicated that the headgear has religious significance; and
 - Either:
 - The headgear is a kufi, yarmulke, turban, habit, or fez, or
 - A written request to wear headgear other than those listed in subsection (a)(4)(D)(i) of this Section was submitted to the Chief Administrative Officer at least ten days prior to the visit and the Chief Administrative Officer approved the request. Failure to submit a timely request shall result in denial of the request.
- At the time of admission to a reception and classification center, a committed person shall submit a list of proposed visitors to designated facility staff. A visiting list shall be established after verification, review, and approval by the Chief Administrative Officer. Permission to visit may be denied based on reasons that are reasonably related to legitimate penological concerns. Visitors must be approved in order to visit.
 - Department staff may interview or request background information from potential visitors to determine whether the individual would pose a threat to the safety or security of the facility or any person or to the order of the facility, security or safety of the facility staff, committed persons or other persons.
 - Visitors Persons 12 years of age or older must be on the approved list in order to visit.
 - An individual A person 12 years through 16 years of age who is not a member of the committed person's immediate family may be on the approved list only with the written consent of his or her parent or guardian. Immediate family shall include children, brothers, sisters, grandchildren, whether step, adopted, half, or whole, and spouses.
 - When visiting, anyone persons under the age of 17 years must be accompanied by an approved visitor A person who is 17 years of age or older and who is an approved visitor, unless

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prior written approval has been granted by the Chief Administrative Officer.

- 3) Visitors Persons under 12 years of age need not be on the approved list in order to visit. However, such visits may persons may visit only be permitted:

- A) When accompanied by a parent or guardian who is an approved visitor;
 - B) When prior written consent has been given by a parent or guardian who is in the free community for the child to visit when accompanied by an approved visitor the person designated in writing who is an approved visitor and who is at least 17 years of age; or
 - C) As otherwise approved by the Chief Administrative Officer.
- 4) In determining whether an exception shall be granted pursuant to subsections (b)(2)(B) and (b)(3)(C), the Chief Administrative Officer may consider, among other factors, the proposed visitor's age, emancipation, and relationship to the committed person; whether a legal guardian has been appointed for the proposed visitor; the inability of an approved visitor to accompany the proposed visitor; and any applicable court order.

- 5) A proposed visitor person who has been convicted of a criminal offense or who has criminal charges pending, including, but not limited to, an individual a person on bond, parole, mandatory supervised release, or probation or an ex-offender, may visit a committed person only with the written approval of the Chief Administrative Officer. In determining whether to approve or deny a request, the Chief Administrative Officer may consider, among other matters, the following:
- A) The nature, and seriousness, and the date of commission of the offense.
 - B) The proposed visitor's person's criminal history.
 - C) The proposed visitor's person's relationship to the committed person.
 - D) The date of discharge from parole, supervision, or probation or of completion of service of a term of incarceration.

- 6) The visiting list of a committed person may be amended at any time by the Chief Administrative Officer in accordance with this Subpart.

(Source: Amended at 20 Ill. Reg. 15960, effective JAN 01 1997)

Section 525.30 Clergy Visitation

Clergy and religious leaders persons regularly recognized religious groups may visit any committed persons person during regularly scheduled visiting hours and during other hours as approved by the Chief Administrative Officer subject

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to safety and security concerns.

(Source: Amended at 20 Ill. Reg. 15960, effective JAN 01 1997)

Section 525.40 Attorney Visitation - Adult and Community Services Divisions

- a) Licensed attorneys and any investigators, law students, or paralegals working under their supervision may visit a committed person during regularly scheduled visiting hours unless permission has been granted by the Chief Administrative Officer to visit during other hours.
- b) Investigators, law students, or paralegals shall be required to present a written statement from a registered attorney indicating that they are working under the supervision of an attorney and indicating the names of the committed persons with whom they are authorized to visit.
- c) Attorneys or those working under their supervision are requested to notify the Chief Administrative Officer of the designated time and date of the visit at least two days in advance of the visit in order to make special visiting room arrangements.

(Source: Amended at 20 Ill. Reg. 15960, effective JAN 01 1997)

Section 525.50 Attorney Visitation - Juvenile Division (Court Agreement)

- a) To assure that persons committed to the Juvenile Division may privately confer in person with attorneys of their choice or with attorneys retained by their parents or with attorneys appointed by courts, the following procedures are established:

- 1) Attorneys may routinely visit committed persons between the hours of 9:00 a.m. and 5:00 p.m. daily, unless other arrangements have been made with the Chief Administrative Officer of the facility.
- A) Except in emergencies, at least 24 hours before the visit, attorneys are requested to notify an employee of the facility designated by the Chief Administrative Officer to arrange visitations, the date and time, at which they wish to confer with the committed person.

- B) The designated employee will immediately confirm the arrangements.

- 2) The visiting attorneys may establish that they are attorneys registered with the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois (130 East Randolph, Suite 1500 269-North-Wabash-Avenue, Chicago, Illinois 60601) by exhibiting their Commission Identification card.

- A) If no card is available, the facility shall call the Commission (800/826-8625 or 312/563-2600 312/346-8698) to determine if the attorneys are registered.

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- B) Visiting attorneys not listed with the Commission or those practicing out of state shall be approved by the Chief Administrative Officer only after it has been established that they are licensed to practice law.
- 3) Any time prior to any attorney-committed person conference, the committed person shall sign an authorization, ~~which~~ the authorization shall be filed in the committed person's master record file and shall be substantially in the following form:

I, (name of committed person), hereby authorize (name of attorney), Attorney at Law, to represent me as my attorney and advocate.

Date: _____

Signature _____

- A) In the event that the committed person's written authorization is not submitted ~~for the~~ by his attorney, the designated employee will immediately confer with the committed person for the purpose of obtaining written authorization.
- B) In lieu of the above authorization, any time prior to the visit, an attorney may present a copy of court order appointing ~~the~~ attorney him to represent the committed person.
- b) The aforementioned shall apply also to law students, paralegals, or attorneys' agents to the extent that such persons present a written statement from registered attorneys indicating that the person is working under the supervision of an attorney.
- c) Before this Section of the Subpart may be modified, the Department legal staff shall be consulted. This Section was promulgated pursuant to the settlement of litigation by order of the court. It may not be modified without the approval of the court.

(Source: JAN 01 1967 20 Ill. Reg. 15960, effective _____)

Section 525.60 Restriction of Visitors

- a) The Chief Administrative Officer may limit the frequency and duration of visits in accordance with the availability of space and staff.
- b) The Chief Administrative Officer may limit the number of persons allowed per visit in accordance with considerations of space, time, and security.
- c) Visiting privileges may be temporarily suspended by the Chief Administrative Officer during an institutional emergency or lockdown and for a reasonable time thereafter, upon the approval of the

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- Director.
- d) Visitors and committed persons shall not be permitted to exchange any items during a visit, except with prior approval of the Chief Administrative Officer.
- e) The Chief Administrative Officer may deny, suspend, or restrict visiting privileges based, among other matters, upon the following:
- 1) Security and safety requirements;
 - 2) Space availability;
 - 3) Disruptive conduct of the committed person or visitor;
 - 4) Abuse of the visiting privileges by the committed person or visitor;
 - 5) Violation of State or federal laws or departmental rules by the committed person or visitor.
- f) Any of the following actions on the part of a visitor may result in a temporary restriction of up to six months:
- 1) Disruptive conduct of a minor nature.
 - 2) Disobeying an order of posted rule.
 - 3) Refusal to submit to search.
 - 4) Possession of drugs when the visitor has demonstrated there was no intent to conceal or ~~and/or~~ introduce drugs into the facility.
 - 5) Possession of alcohol when the visitor has demonstrated there was no intent to conceal or ~~and/or~~ introduce alcohol into the facility.
 - 6) Being under the influence of alcohol or drugs.
 - 7) Possession of other contraband as defined under State, federal, or local laws or other departmental rules not specifically outlined in this Subpart.
- g) Any of the following actions on the part of a visitor may result in a permanent restriction:
- 1) Assaultive behavior on any individual.
 - 2) Sexual misconduct.
 - 3) Possession of weapons.
 - 4) Possession of drugs or drug paraphernalia unless-the-visitor demonstrates-he-did-not-intend-to-conceal-and/or-introduce-drugs-or-drug-paraphernalia-into-the-facility.
 - 5) Unauthorized possession of money.
 - 6) Possession of escape paraphernalia.
 - 7) Possession of alcohol unless-the-visitor-demonstrates-he-did-not-intend-to-conceal-and/or-introduce-alcohol-into-the-facility.
 - 8) Providing false identification or information.
 - 9) Disruptive conduct of a major nature.
 - 10) Violation of State, federal, or local law during a visit, including arrest or ~~and/or~~ conviction based on any action committed during a visit.
 - 11) Any recurrence of an action that previously resulted in a temporary restriction.
- h) Employees ~~An~~-employee who have been involved with a committed persons person or a former employees employee who have either

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resigned or have been terminated as a result of involvement with a committed persons person may be permanently restricted from visits if it is determined they he may be a threat to safety or security.

- 1) If contraband is discovered in the possession of a committed person either during or after a visit, it will be assumed that the contraband was introduced by the committed person's visitor.
- 2) Visits of committed persons hospitalized in the community may be restricted to the immediate family and shall be subject to the general visiting policies of the hospital.
- 3) Written notification of temporary or permanent restriction of visiting privileges shall be sent to the visitor and to the committed person.
- 4) Any person excluded from a committed person's visiting list at one correctional facility may be excluded at all facilities. The notice of temporary restriction shall state the exact length of the restriction. ~~the notice of permanent restriction shall inform the visitor that he may request that the Chief Administrative Officer review the decision after a six-month period.~~
- 5) Notices of permanent restrictions shall inform visitors and committed persons that they may request that the Chief Administrative Officer review the decision after a six-month period. After the initial six-month review, permanent permanent restrictions shall be reviewed by the Chief Administrative Officer on an annual basis upon request of the committed persons person or their his visitors visitor. Written notification of the decision shall be sent to the visitor and to the committed person.
- 6) The Chief Administrative Officer may restore visiting privileges at any time.

(Source: Amended at 20 Ill. Reg. 15960, effective JAN 01 1987)

SUBPART B: MAIL AND TELEPHONE CALLS

Section 525.100 Applicability

This Subpart applies to the Adult, Juvenile, and Community Services Divisions of the Department of Corrections.

(Source: Amended at 20 Ill. Reg. 15960, effective JAN 01 1987)

Section 525.110 Definitions

- a) "Chief Administrative Officer" means the highest ranking official of a correctional facility.
- b) "Department" means the Department of Corrections.
- c) "Deputy Director" means the highest ranking official of a division of the Bureau within the Department or the Chief Deputy Director of the

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Department.

31c7 "Director" means the Director of the Department of Corrections.
31d7 "Incoming privileged mail" means mail from the following:

- 1) The Director;
- 2) Deputy Directors and Assistant Deputy Directors of the Department;
- 3) Members-of-the-Office-of-Agency-Services;
- 3147 Members of the Administrative Review Board;
- 3157 The Governor of Illinois;
- 3167 Federal-Judiciary or local Illinois legislators;
- 3177 Chief Executive Officers of the Federal Bureau of Investigation, the Drug Enforcement Administration, the Criminal Division of the Department of Justice, the United States Customs Service, the Secret Service, the Illinois State Police, and Sheriff's Offices and Police Departments in the State of Illinois;
- 3187 John Howard Association; and
- 3197 Legal mail.

31e7 "Outgoing privileged mail" means mail to the following:

- 1) The Director;
- 2) Deputy Directors and Assistant Deputy Directors of the Department;
- 3) Members-of-the-Office-of-Agency-Services;
- 3147 Members of the Administrative Review Board;
- 3157 The Governor of Illinois;
- 3167 Federal-Judiciary or local Illinois legislators;
- 3177 Chief Executive Officers of the Federal Bureau of Investigation, the Drug Enforcement Administration, the Criminal Division of the Department of Justice, the United States Customs Service, the Secret Service, the Illinois State Police, and Sheriff's Offices and Police Departments in the State of Illinois;
- 3187 John Howard Association;
- 3197 Clerks of Courts; and
- 3207 Legal mail.

31f7 "Regular mail" means mail to and from the following:

- 1) Registered Attorneys;
- 2) The Illinois Attorney General;
- 3) Judges or magistrates of any court or the Illinois Court of Claims;
- 4) Any organization which provides direct legal representation to committed persons, but not including organizations which provide referrals to attorneys, such as bar associations.

(Source: JAN 01 1987, 20 Ill. Reg. 15960, effective JAN 01 1987)

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- a) Unless otherwise specified, the Director or Chief Administrative Officer may delegate responsibilities stated in this Subpart to another person or persons or designate another person or persons to perform the duties specified.
- b) No other individual may routinely perform duties whenever a Section in this Subpart specifically states the Director or Chief Administrative Officer shall personally perform the duties. However, the Director or Chief Administrative Officer may designate another person or persons to perform the duties during periods of his or her temporary absence or in an emergency.

(Source: Amended at 20 Ill. Reg. 15960, effective JAN 01 1987)

Section 525.120 Processing of Mail

- a) Mail shall be delivered and posted promptly.
- b) Committed persons may correspond with anyone in the free community. Permission for committed persons to correspond between intra-state and inter-state correctional facilities shall require the approval of the Chief Administrative Officers of both facilities and shall be based on safety and security concerns.
- c) Each facility shall establish procedures in cooperation with the local post office for processing certified or registered mail. To send certified or registered mail, the committed persons person in an adult or juvenile facilities facility must have sufficient funds in their trust fund accounts account and must attach to the envelope envelope a signed money vouchers voucher so that the proper postage may be applied and the amount deducted from their trust fund accounts account.
- d) Committed persons shall not be permitted to open, read, or deliver another committed person's mail without the person's hts permission. However, committed persons may transport mail in sacks or other closed containers under the direct supervision of an employee.
- e) No disciplinary restrictions shall be placed on a committed person's mail privileges.

(Source: Amended at 20 Ill. Reg. 15960, effective JAN 01 1987)

Section 525.130 Outgoing Mail

This Section applies only to the Adult and Juvenile Divisions.

- a) Committed persons shall be permitted to mail at State expense the equivalent of three one-ounce, first-class letters to a destination within the continental United States each week. This allowance may not be transferred from one committed person to another, nor may it accumulate from one week to another.

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- b) Committed persons shall be permitted to send additional letters if they have sufficient funds in their trust fund accounts and attach signed money vouchers to cover the postage. Committed persons with insufficient money in their trust fund accounts shall be permitted to send reasonable amounts of legal mail and mail to clerks of any court or the Illinois Court of Claims and to certified court reporters at State expense if they attach signed money vouchers authorizing deductions of future funds to cover the cost of the postage. All other privileged and non-privileged mail will be sent only if the committed person has sufficient funds to pay the postage.
- c) Committed persons must clearly mark all outgoing mail with their name and in the Adult Division with their institutional number. Mail that is not properly marked, including privileged mail, shall be opened and returned to the sender if the sender's identity can be determined. If the sender's identity cannot be determined, the mail shall be destroyed.
- d) Outgoing privileged mail must be clearly marked as "privileged" and sealed by the committed person. Outgoing mail which is clearly marked as privileged and addressed to a privileged party may not be opened for inspection except as provided in subsection (e) of this Section.
- e) In the Adult Division, outgoing privileged mail shall be examined for dangerous contraband using an x-ray, fluoroscope, or other similar device. Such examination may be conducted in the Juvenile Division. Outgoing privileged mail may be inspected for dangerous contraband by other means which do not damage the mail and which do not permit the mail to be read. Except in an emergency, outgoing privileged mail shall not be opened unless there is reasonable suspicion that dangerous contraband is contained therein. Legal services is consulted, and the mail is opened in the committed person's presence.
- f) With the exception of privileged mail, all mail shall be unsealed when collected or placed in housing unit mailboxes. Sealed mail that is not privileged will be opened and returned to the sender if the sender's identity can be determined. If the sender's identity cannot be determined, the mail shall be destroyed.
- g) Each correctional facility shall establish procedures for the collection of outgoing mail. Collections shall be made daily, Monday through Friday, except on State holidays. Every effort shall be made to ensure that mail is delivered to the U.S. Postal Service on the same day.
- h) Outgoing non-privileged mail shall be inspected for contraband. If a letter from a committed person is confiscated because it contains contraband, the committed person shall be notified promptly in writing.
- i) Department employees may spot check and read outgoing non-privileged mail. Outgoing non-privileged mail or portions thereof may be reproduced or withheld from delivery if it presents a threat to security or safety, including the following:
- 1) The letter contains threats of physical harm against any person

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- or threats of criminal activity;
- 2) The letter contains threats of blackmail or extortion;
 - 3) The letter contains information regarding sending contraband into or out of the facility, plans to escape, or plans to engage in criminal activity;
 - 4) The letter is in code and its contents cannot be understood by correctional staff;
 - 5) The letter violates any departmental rules or contains plans to engage in activities in violation of departmental or institutional rules;
 - 6) The letter solicits gifts, goods, or money from other than family members;
 - 7) The letter contains information which, if communicated, might result in physical harm to another;
 - 8) The letter contains unauthorized correspondence with another committed person; or
 - 9) The letter or contents thereof constitute a violation of State or Federal law.
- 1) If an outgoing letter may be stopped and returned to the sender, if the person to whom it is addressed (or a parent or guardian, if the addressee is a minor or incompetent) has notified the Chief Administrative Officer in writing that the person he does not wish to receive mail from the committed person. This rule shall not be construed to prevent a committed person from corresponding with their his children unless their his parental rights have been terminated.
- 2) If a committed person is prohibited from sending a letter or portions thereof, the committed person he shall be informed in writing of the decision.
- 3) Material from a letter which violates subsection (1)(b) of this Section may be placed in a committed person's master file.
- 4) Committed persons may not send packages without approval of the Chief Administrative Officer, whose decision shall be based on administrative, safety, and security considerations.

(Source: Amended at 20 Ill. Reg. **15960**, effective **JAN 01 1977**)

Section 525.140 Incoming Mail

- a) Incoming privileged mail must be clearly marked as "privileged" and be clearly marked with the name, title, and address of the sender.
- b) Incoming privileged mail may be opened in the presence of the committed person to whom it is addressed to inspect for contraband, to verify the identity of the sender, and to determine that nothing other than legal or official matter is enclosed.
- c) Incoming privileged mail may contain communications only from the privileged correspondent whose name and address appear on the

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- envelope. If non-privileged material or correspondence from a third party is found to be enclosed, such material shall be treated as All privileged mail.
- d) All incoming non-privileged mail, including mail from clerks of the State's check opened and inspected for contraband.
 - e) Cashier's checks, money orders, and business checks subject to the restrictions imposed by 20 Ill. Adm. Code 205 shall be deposited in the committed person's trust fund account, with a record made of the sender's name, the business check, and the date. For all purposes of this Section a business check shall mean check written on any agency's, agency or firm's account and any check written on an employer's personal account for wages due; a person assigned to the Community Services Division. Committed persons the committed person shall be notified of all monies received and deposited in their his trust fund accounts account. However, any checks or money orders which exceed the limitation on the amounts (20 Ill. Adm. Code 205) shall be returned to the sender, and the committed person shall be notified.
 - f) Personal checks and cash shall be returned to the sender, and the sender shall be notified that funds cannot be received in that form.
 - g) Correctional officials may spot check and read incoming non-privileged mail. Incoming mail or portions thereof may be inspected, reproduced, or withheld from delivery for any of the reasons listed in Section 525.130(1)(b) of this Subpart or if determined to be obscene by the Publications Review Committee in accordance with Subpart C of this Part.
 - h) When a committed person is prohibited from receiving a letter or portions thereof, the committed person and the sender shall be notified in writing of the decision.
 - i) If a committed person has been transferred or released, first class mail shall be forwarded to the person his if the his address is known. If no forwarding address is available, the mail shall be returned to the sender.
 - j) If a committed person has been absent from the facility on a furlough or pursuant to writ, the person's his mail shall be held at the facility for a period of one month, unless the committed person has made a written request to the Chief Administrative Officer to have the his mail forwarded to another address. At the conclusion of the month, first class mail shall be forwarded to the committed person's address, if known, or returned to the sender, unless alternative arrangements have been made.
 - k) Committed persons may receive publications, including books, periodicals and catalogs, in accordance with Subpart C of this Part, and may receive manila typewriters ordered directly from a supplier through the commissary. Other packages may be received only as approved by the Chief Administrative Officer. All packages shall be opened and searched prior to delivery.

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(Source: Amended at 20 Ill. Reg. 15960, effective JAN 01 1937)

Section 525.150 Telephone Privileges

- a) Telephone privileges shall be granted to the committed persons person in accordance with their his institutional status and provisions of this Section. Each committed person qualifying for telephone privileges may place collect calls to anyone in the free community anywhere in the continental United States and Puerto Rico. However, calls to prisoners or ex-offenders require approval by the Chief Administrative Officer.
- b) Collect calls may be made to persons in the continental United States and Puerto Rico, where billable.
- c) Committed persons may not place telephone calls to:
 - 1) Toll free area codes, including but not limited to 800 series area codes, or to area codes or prefixes for which a charge is assessed to the line from which the call was placed, including but not limited to 800 or 900 series area codes or 976 prefixes;
 - 2) Emergency or directory assistance or to long distance carriers;
 - 3) Persons or companies which have requested that a block be placed on their telephone numbers;
 - 4) Numbers suspected of being used fraudulently or for fraudulent purposes;
 - 5) Parolees, ex-offenders, former employees, or current employees absent the approval of the Chief Administrative Officer; or
 - 6) Numbers or persons restricted for other legitimate penological reasons, including security and order.
- d) A block may be placed on telephone calls to:
 - 1) The local community except to the committed person's friends, family, and others in the local community, who request to receive calls from the committed person.
 - 2) A telephone number for which there is a large unpaid balance on the account, with the exception of telephone numbers of attorneys and law firms.
 - 3) Any telephone numbers listed in subsection (c) of this Section.
- e) Committed persons may not engage in call forwarding or in conference calls.

f) In the case of valid emergencies, such as critical illness or death in a committed person's immediate family, consideration shall be given to allowing a special telephone call, regardless of the individual's institutional status.

g) Committed persons who are the subject of a new criminal indictment, information, or complaint shall be permitted to make reasonable telephone calls to attorneys for the purpose of securing defense counsel, regardless of the individual's institutional status.

h) All committed persons' telephone calls shall be subject to monitoring and recording at any time by departmental staff, unless prior special

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arrangements have been made to make or to receive confidential telephone calls to or from their attorneys.

i) Telephone calls be posted at each telephone from which committed persons are normally permitted to place calls and in the committed persons' orientation manual. The notices shall state that committed persons' telephone calls may be monitored or recorded or both.

(Source: Amended at 20 Ill. Reg. 15960, effective JAN 01 1937)

SUBPART D: MARRIAGE OF COMMITTED PERSONS

Section 525.300 Applicability

This Subpart applies to the Adult, Juvenile, and Community Services Divisions of the Department of Corrections.

(Source: Amended at 20 Ill. Reg. 15960, effective JAN 01 1937)

Section 525.305 Responsibilities

- a) Unless otherwise specified, the Director or Chief Administrative Officer may delegate responsibilities stated in this Subpart to another person or persons or designate another person or persons to perform the duties specified.
- b) No other individual may routinely perform duties whenever a Section in this Subpart specifically states the Director or Chief Administrative Officer shall personally perform the duties. However, the Director or Chief Administrative Officer may designate another person or persons to perform the duties during periods of his or her temporary absence or in an emergency.

(Source: Amended at 20 Ill. Reg. 15960, effective JAN 01 1937)

Section 525.310 Request for Permission to Marry

- a) Marriage between two committed persons confined in Department facilities shall be prohibited.
- b) A committed person who wishes to become married shall submit a written request to the Chief Administrative Officer a minimum of 30 days in advance of the date requested for the marriage ceremony.
 - 1) The notice shall include the name and address of the intended spouse and a description of any actions which have been taken in obtaining a marriage license and in complying with applicable provisions of the law.
 - 2) All financial obligations shall be the responsibility of the

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committed person. ~~The committed person shall be given prior notice of the cost of all required blood tests.~~

- 3) A request for a ~~three-day-unescorted-home-and-family-furlough-or~~ a community correctional center leave may be submitted at the same time as the request to marry. The request shall be reviewed in accordance with 20 Ill. Adm. Code 530. ~~Subpart D departmental procedures regarding furloughs.~~

c) The facility chaplain or an individual designated by the Chief Administrative Officer shall conduct a pre-marital counseling session with the committed person ~~and/or~~ the intended spouse.

d) The Chief Administrative Officer shall review the request to marry and shall approve or deny the request based on security concerns, or the best interest of the committed person, or other legitimate penological interests. The Chief Administrative Officer's decision regarding the request to marry and, if applicable, the leave furlough request, shall be made in writing, and a copy shall be provided to the committed person.

e) The ~~if a furlough is not permitted~~ the facility shall make its chapel or another suitable location available for the performance of the marriage ceremony.

1) The facility's chaplain shall review the type of ceremony which is requested and refer a description of the proposed ceremony to the Chief Administrative Officer for approval.

2) Witnesses and guests shall not exceed six in number, excluding the officiating clergyman. Witnesses and guests must be on the committed person's approved visiting list, except as otherwise approved by the Chief Administrative Officer.

3) Facilities for the consummation of marriages or for a reception shall not be provided.

(Source: Amended at 20 Ill. Reg. 15960, effective

JAN 01 1997)

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: General Provisions

2) Code Citation: 32 Ill. Adm. Code 310

3) Section Number: Adopted Action:
310.75 New Section

4) Statutory Authority: Implementing and authorized by Section 38(b) of the Radiation Protection Act of 1990 (420 ILCS 40/38(b)) (see P.A. 89-143, effective July 14, 1995).

5) Effective Date of Amendments: December 9, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does these amendments contain incorporations by reference? No

8) Date filed in Agency's Principal Office: December 5, 1996

9) Notice of Proposal Published in the Illinois Register: September 13, 1996 (20 Ill. Reg. 12306)

10) Has JCAR issued a Statement of Objections to these Amendments? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the argument letter issued by JCAR? Yes

13) Will these amendments replace an emergency amendment currently in effect?
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: This Amendment will add a new Section 310.75, which will implement a statutory requirement which authorizes the Department to assess the costs of its response against persons responsible for the creation or continuation of an immediate threat to health.

16) Information and questions regarding these amendments shall be directed to:

Robert B. Roitsclaw
Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 524-1003 (voice)
(217) 782-6133 (TDD)

DEPARTMENT OF NUCLEAR SAFETY
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The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF NUCLEAR SAFETY
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TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 310
GENERAL PROVISIONS

Section	Scope
310.10	Incorporations by Reference
310.15	Definitions
310.20	Exemptions
310.30	Records
310.40	Inspections
310.50	Tests
310.60	Additional Requirements
310.70	Emergency Response Cost Recovery
310.75	Violations
310.80	Policy for Assessment of Civil Penalties
310.82	Procedures for Assessment of Civil Penalties
310.90	Impounding
310.100	Prohibited Uses
310.110	Communications
310.120	Plans and Specifications
310.130	The International System of Units (SI) (Repealed)
310.140	Units of Exposure and Radiation Dose
310.150	Units of Activity
APPENDIX A	Transport Grouping of Radionuclides (Repealed)
APPENDIX B	Tests for Special Form Licensed Material (Repealed)
APPENDIX C	Penalty Assessment Worksheet (Repealed)

AUTHORITY: Implementing and authorized by Section 39(b) of the Radiation Protection Act of 1990 [420 ILCS 40/39(b)] (see P.A. 89-143, effective July 14, 1995).

SOURCE: Filed April 20, 1974 by the Department of Public Health; transferred to the Department of Nuclear Safety by P.A. 81-1516, effective December 3, 1980; codified at 7 Ill. Reg. 15657; amended at 10 Ill. Reg. 17259, effective September 25, 1986; amended at 15 Ill. Reg. 10604, effective July 15, 1991; amended at 17 Ill. Reg. 18472, effective January 1, 1994; amended at 20 Ill. Reg. ~~15978~~ effective ~~December 1, 1994~~.

NOTE: In this Part, superscript numbers or letters are denoted by parentheses, subscript are denoted by brackets.

Section 310.75 Emergency Response Cost Recovery

The Department has authority under the Radiation Protection Act of 1990 [420

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ILCS 40 to respond to conditions that constitute an immediate threat to health and to assess the costs of its response against the person or persons responsible for the creation or continuation of the threat.... If the Department is unable to determine who is responsible for the creation or continuation of the threat, the costs shall be assessed against the owner of the property and shall constitute a lien against the property until paid [420 ILCS 40/38(b)].

- a) Costs that are assessed shall be based on:
 - 1) The Department's actual response costs, including, but not limited to:
 - A) Time required by Department professional staff to coordinate response;
 - B) Time spent traveling and providing administrative support;
 - C) Performance or oversight of decontamination activities at properties contaminated with radioactive material;
 - D) Performance or oversight of confirmatory environmental monitoring;
 - E) Performance or oversight of treatment, storage and disposal of sources of radiation;
 - F) Equipment and supplies; and
 - G) Contractual support, if any, incurred by the Department.
 - 2) Agency work performed to support services that include, but are not limited to, removal of specialized equipment, acquisition of additional professional expertise, and other services that are not available within the Department and laboratory fees charged to the Department.
- 2) Costs incurred by other units of government while assisting the Department including agencies of the federal government, provided the costs are submitted as follows:
 - A) Unless otherwise notified by the Department, the request for reimbursement must be received by the Department within 45 days after the assistance is rendered to the Department or 45 days after the costs are determined, whichever is later, but in any case, not later than one year after the assistance is rendered;
 - B) The request shall be in writing and shall include documentation justifying costs to be reimbursed; and
 - C) Reimbursable costs may include, but are not limited to, items specified in subsection (a)(1) of this Section.
- b) All reimbursable costs described in a reimbursement request by a governmental unit are subject to approval by the Director of the Department. The Department may request additional information in support of the requested reimbursement.
- c) If a request by a governmental unit for costs is denied, or denied in part, the Department shall notify the requesting governmental unit of the decision within 30 days after the date the request was submitted.
- d) Each bill for emergency response costs assessed under this Section shall identify the items claimed and the costs related to each.

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- Payment is due to the Department within 45 days after receipt of the bill.
- e) After all emergency response costs have been paid by the responsible parties, the Department shall pay governmental units based on approved requests.
 - f) Any person assessed costs under this Section shall have the right to a hearing before the Department provided a written request for a hearing is served on the Department within 10 days after notice of the assessment. In the absence of receipt of a request for a hearing, the affected party shall be deemed to have waived the right to a hearing. [420 ILCS 40/38(b)]. Hearings shall be conducted in accordance with 32 Ill. Adm. Code 200.

(Source: Added at 20 Ill. Reg. 15978, effective _____)

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Aid to Families with Dependent Children
- 2) Code Citation: 89 Ill. Adm. Code 112
- 3) Section Numbers: Adopted Action:
112.30 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: December 9, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: December 9, 1996
- 9) Notice of Proposal Published in Illinois Register: August 23, 1996 (20 Ill. Reg. 11462)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version: No changes were made in the text of the proposed amendments.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these Amendments replace Emergency Amendments currently in effect? No
- 14) Are there any Amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
112.66	New Section	August 16, 1996 (20 Ill. Reg. 10766)
112.71	Amendment	August 30, 1996 (20 Ill. Reg. 11560)
112.75	New Section	September 13, 1996 (20 Ill. Reg. 12326)
112.98	Amendment	April 26, 1996 (20 Ill. Reg. 59565)
112.414	Amendment	October 11, 1996 (20 Ill. Reg. 13138)

- 15) Summary and Purpose of Amendments: In compliance with federal regulations at 45 CFR 400.104, these amendments add medical extension provisions for Refugee cases with earnings. This rulemaking provides guidelines for the extension of medical assistance to Refugee cases whose cash assistance case is cancelled due to new or increased earnings from employment or whose medical assistance case would be placed in spend-down status due to

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new or increased earnings from employment.

As a result of these amendments, a medical extension will be issued to Refugee Assistance cases, despite earnings. The medical extension will run for a period of four months or until the refugee reaches the end of his or her time-eligibility period for refugee medical assistance, whichever is less.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Judy Umuna
Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Third Avenue East, Third Floor
Springfield, Illinois 62762
(217) 524-0081

The full text of the Adopted Amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 112

AID TO FAMILIES WITH DEPENDENT CHILDREN

SUBPART A: GENERAL PROVISIONS

Section
112.1 Description of the Assistance Program
112.5 Incorporation by Reference

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section
112.8 Caretaker Relative
112.9 Client Cooperation
112.10 Citizenship
112.20 Residence
112.30 Age
112.40 Relationship
112.50 Living Arrangement
112.52 Social Security Numbers
112.54 Assignment of Medical Support Rights
112.60 Lack of Parental Support or Care
112.61 Death of a Parent
112.62 Incapacity of a Parent
112.63 Continued Absence of a Parent
112.64 Unemployment of the Parent
112.65 Employment plan
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SUBPART C: JOB OPPORTUNITIES AND BASIC SKILLS TRAINING (JOBS) PROGRAM

Section
112.70 Participation Requirements for JOBS
112.71 Individuals Exempt from JOBS
112.72 JOBS Participation/Cooperation Requirements
112.73 Adolescent Parent Program
112.74 JOBS Initial Assessment Process/Development of an Employability Plan
112.76 JOBS Orientation
112.77 Conciliation and Fair Hearings
112.78 JOBS Components
112.79 JOBS Sanctions
112.80 Good Cause for Failure to Comply with JOBS Participation Requirements
112.81 Responsible Relative Eligibility for JOBS
112.82 JOBS Supportive Services

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Young Parents Program
Work Experience Evaluation Project
Four Year College/Vocational Training Demonstration Project

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112.87 Project Advance Experimental and Control Groups
112.88 Project Advance Participation Requirements of Experimental Group Members and Adjudicated Fathers
112.89 Project Advance Cooperation Requirements of Experimental Group Members and Adjudicated Fathers
112.90 Project Advance Sanctions
112.91 Good Cause for Failure to Comply with Project Advance
112.93 Individuals Exempt from Project Advance
112.95 Project Advance Supportive Services

SUBPART F: EXCHANGE PROGRAM

Section
112.98 Exchange Program

SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

Section
112.100 Unearned Income
112.101 Unearned Income of Stepparent or Parent
112.105 Budgeting Unearned Income
112.106 Budgeting Unearned Income of Applicants Employed On Date of Application And/Or Date Of Decision
112.107 Initial Receipt of Unearned Income
112.108 Termination of Unearned Income
112.110 Exempt Unearned Income
112.115 Education Benefits
112.120 Incentive Allowances
112.125 Unearned Income In-Kind
112.126 Earned Income
112.127 Lump Sum Payments
112.128 Protected Income
112.130 Earned Income
112.131 Earned Income Tax Credit
112.132 Budgeting Earned Income
112.133 Budgeting Earned Income of Applicants Employed On Date of Application And/Or Date Of Decision
112.134 Initial Employment
112.135 Budgeting Earned Income For Contractual Employees
112.136 Budgeting Earned Income For Non-Contractual School Employees

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112.137 Termination of Employment
 112.138 Transitional Payments (Repealed)
 112.140 Exempt Earned Income
 112.141 Earned Income Exemption
 112.142 Exclusion From Earned Income Exemption
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 112.144 Income From Work/Study/Training Program
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 Fees for Service for Transitional Child Care
 Rates of Payment for Transitional Child Care

AUTHORITY: Implementing Article IV, and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory

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at 12 Ill. Reg. 10481, effective June 13, 1988; amended at 12 Ill. Reg. 14172, effective August 30, 1988; amended at 12 Ill. Reg. 14669, effective September 16, 1988; amended at 13 Ill. Reg. 70, effective January 1, 1989; amended at 13 Ill. Reg. 6017, effective April 14, 1989; amended at 13 Ill. Reg. 8567, effective May 22, 1989; amended at 13 Ill. Reg. 16006, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16142, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 705, effective January 1, 1990; amended at 14 Ill. Reg. 3170, effective February 13, 1990; amended at 14 Ill. Reg. 3575, effective February 23, 1990; amended at 14 Ill. Reg. 6306, effective April 16, 1990; amended at 14 Ill. Reg. 10379, effective June 20, 1990; amended at 14 Ill. Reg. 13652, effective August 10, 1990; amended at 14 Ill. Reg. 14140, effective August 17, 1990; amended at 14 Ill. Reg. 16937, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 338, effective January 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 2862, effective February 4, 1991, for a maximum of 150 days; emergency expired July 4, 1991; amended at 15 Ill. Reg. 5275, effective April 1, 1991; amended at 15 Ill. Reg. 5684, effective April 10, 1991; amended at 15 Ill. Reg. 11127, effective July 19, 1991; amended at 15 Ill. Reg. 11447, effective July 25, 1991; amended at 15 Ill. Reg. 14227, effective September 30, 1991; amended at 15 Ill. Reg. 17308, effective November 18, 1991; amended at 16 Ill. Reg. 9972, effective June 15, 1992; amended at 16 Ill. Reg. 11550, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 11552, effective July 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 11724, effective November 9, 1992; amended at 16 Ill. Reg. 20147, effective December 1, 1992; amended at 17 Ill. Reg. 357, effective December 24, 1993; amended at 17 Ill. Reg. 813, effective January 15, 1993; amended at 17 Ill. Reg. 2253, effective February 15, 1993; amended at 17 Ill. Reg. 4312, effective March 2, 1993; emergency amendment at 17 Ill. Reg. 6325, effective April 9, 1993 for a maximum of 150 days; amended at 17 Ill. Reg. 6792, effective March 21, 1993 for a maximum of 150 days; amended at 17 Ill. Reg. 15017, effective April 21, 1993; amended at 17 Ill. Reg. 15017, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 16966, effective October 1993; a maximum of 150 days; amended at 18 Ill. Reg. 5909, effective March 31, 1994; amended at 18 Ill. Reg. 6994, effective April 27, 1994; amended at 18 Ill. Reg. 8703, effective June 1, 1994; amended at 18 Ill. Reg. 10774, effective June 27, 1994; amended at 18 Ill. Reg. 12805, effective August 5, 1994; amended at 18 Ill. Reg. 15774, effective October 17, 1994; expedited correction at 19 Ill. Reg. 998, effective October 17, 1994; amended at 19 Ill. Reg. 2845, effective February 24, 1995; amended at 19 Ill. Reg. 5609, effective March 31, 1995; amended at 19 Ill. Reg. 7883, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 10206, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12011, effective August 7, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 12664, effective September 1, 1995; emergency amendment at 19 Ill. Reg. 15244, effective November 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15661, effective November 3, 1995; emergency amendment at 19 Ill. Reg. 15839, effective November 15, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 16295, effective December 1,

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1995, for a maximum of 150 days; amended at 20 Ill. Reg. 845, effective January 1, 1996; amended at 20 Ill. Reg. 3538, effective February 15, 1996; amended at 20 Ill. Reg. 5648, effective March 30, 1996; amended at 20 Ill. Reg. 6016, effective April 13, 1996; amended at 20 Ill. Reg. 6498, effective April 29, 1996; amended at 20 Ill. Reg. 7892, effective June 1, 1996; emergency amendment at 20 Ill. Reg. 12499, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14820, effective November 1, 1996; amended at 20 Ill. Reg. **15983**, effective **DEC 0 9 1996**.

SUBPART I: OTHER PROVISIONS

Section 112.330 Extension of Medical Assistance Due to Increased Income from Employment

- a) A six (6) month extension of medical assistance shall be provided for APDC cases when APDC assistance is terminated due to increased hours or increased income from employment. This extension shall begin with the APDC case's first month of ineligibility. Ineligibility may result from initial or increased earnings.
- b) Except for those APDC cases in the Homeless Families Support Project, the initial six (6) month medical assistance period can be extended for a total of six (6) additional months. Eligibility for an extension beyond the initial six (6) month period shall exist if:
 - 1) The Medical Extension Report Form is returned by the due date;
 - 2) an eligible child is still in the home;
 - 3) the client's earnings from the past three (3) months minus child care costs are less than 18% of the poverty line except for those APDC cases in the Homeless Families Support Project; and
 - 4) the client has not quit employment without good cause.
- c) An extension of medical assistance shall be provided for ~~refugee~~ cases when:
 - 1) a cash case is terminated due to new or increased earnings from employment; or
 - 2) medical assistance only case would be placed in a ~~stand-down~~ status due to new or increased earnings from employment.
- d) For ~~Refugee~~ cases the medical assistance shall be extended by a period of four months or until the reference earnings and of this or her time-eligibility period of refugee assistance, whichever is less.

(Source: Amended at 20 Ill. Reg. **15983**, effective **DEC 0 9 1996**.)

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- 1) Heading of the Part: Medical Assistance Programs
- 2) Code Citation: 89 Ill. Adm. Code 120
- 3) Section Numbers:
 - 120.130 Adopted Action:
 - 120.360 Amendment
 - 120.361 Amendment
 - 120.362 Amendment
 - 120.363 New Section
 - 120.364 Amendment
 - 120.372 Amendment
 - 120.395 Repeal
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: December 9, 1996
- 6) Does this rulemaking contain an automatic reveal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: December 9, 1996
- 9) Notice of Proposal Published in Illinois Register: January 19, 1996 (20 Ill. Reg. 1133)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version: The following changes were made in the text of the proposed amendments:
 1. In Section 120.360(c)(1), a comma was added after "i.e.".
 2. In Section 120.360(c)(2), "subsection" was added before "(c)(1) of this Section".
 3. In Section 120.361(c), "weekly" was changed to "bi-weekly".
 4. In Sections 120.362(b)(1) and (b)(2)(A), "plus" was changed to "and".
 5. In Section 120.362(c), "earned income shall be exempt if it is the" was added at the beginning of the subsection.
 6. In Section 120.372(e), "income" was added after "self-employment".

No other changes have been made in the text of the proposed amendments.

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- 12) Have all the changes aired upon by the agency and JCAR been made as indicated in the airtel letter issued by JCAR? Yes
 - 13) Will these Amendments replace Emergency Amendments currently in effect? No
 - 14) Are there any Amendments pending on this Part? Yes
- | Section Numbers | Proposed Action | Illinois Register Citation |
|-----------------|-----------------|--------------------------------------|
| 120.11 | Amendment | August 25, 1995 (19 Ill. Reg. 12192) |
| 120.20 | Amendment | October 5, 1995 (19 Ill. Reg. 13797) |
| 120.24 | Amendment | August 25, 1995 (19 Ill. Reg. 13192) |
| 120.310 | Amendment | August 25, 1995 (19 Ill. Reg. 13192) |
| 120.345 | Amendment | October 5, 1995 (19 Ill. Reg. 13797) |
| 120.390 | Amendment | August 25, 1995 (19 Ill. Reg. 13192) |
| 120.390 | Amendment | October 5, 1995 (19 Ill. Reg. 13797) |
| 120.391 | Amendment | August 25, 1995 (19 Ill. Reg. 13192) |
| 120.392 | Amendment | August 25, 1995 (19 Ill. Reg. 13192) |
- 15) Summary and Purpose of Amendments: These amendments introduce three budgeting changes for WANG. The purpose of these changes is to simplify the WANG budgeting process, provide more stability to the client's eligibility status and reduce the time casework staff have to use for budgeting.

The three changes are as follows:

 1. cents will be dropped in budget calculations;
 2. income received on a weekly basis will be averaged and multiplied by 4.33 to even out monthly fluctuations due to periodic extra paychecks. Income received bi-weekly will be averaged and multiplied by 2.16 to even out monthly fluctuations due to periodic extra paychecks; and
 3. income of self-employed persons will be averaged over the year.

However, the Department has now determined that averaging the income of self-employed persons over the year cannot be implemented. Since the problems with implementation of this change were discovered after the proposed changes were reviewed by the Joint Committee on Administrative Rules, the change cannot be deleted from this rulemaking. Amendments to delete this provision from Section 120.372(e) will be proposed in the near future.

Currently, despite the type of employment received, the Department budgets the income of all WANG clients monthly. Monthly income may vary for those clients paid weekly, bi-weekly or who are self-employed. For four months

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out of the year, clients who receive earnings weekly are subject to having five pay periods. For two months out of the year, clients who receive earnings bi-weekly are subject to having three pay periods. These kinds of income fluctuations result in clients having a spenddown case three or four months out of the year and a regular WANG case for the remaining months of the year. Unwarranted administrative processing time benefits neither the client nor the Department.

This rulemaking proposes to average income for clients in the above situations when determining eligibility for WANG. As a result of this rulemaking, the income clients who are paid weekly and bi-weekly will be averaged by using 4.33 or 2.16, respectively. Clients with self-employed income will be reviewed yearly.

- 16) Information and suggestions regarding these Adopted Amendments shall be directed to:

Judy Usanna
Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor
Springfield, IL 62762
(217) 524-0081

The full text of the Adopted Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 120

MEDICAL ASSISTANCE PROGRAMS

SUBPART A: GENERAL PROVISIONS

Incorporation By Reference

SUBPART B: ASSISTANCE STANDARDS

Section
120.1

Section

120.10
120.11

120.12

120.20

120.30

120.31

120.40

120.50

Eligibility For Medical Assistance
Eligibility For Medical Assistance For Pregnant Women and Children Born October 1, 1983, or Later Who Do Not Qualify As Mandatory Categorically Needy (MANG(P) Program)
Healthy Start - Medicaid Presumptive Eligibility Program For Pregnant Women
WANG(AABD) Income Standard
WANG(C) Income Standard
WANG(P) Income Standard
Exceptions To Use Of WANG Income Standard
AMI Income Standard (Repealed)

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section
120.60

120.61

120.62

120.63

120.64

120.65

All Cases Other Than Intermediate Care, Skilled Nursing Care, DMHDD, DMHDD Approved Community Based Settings and Pregnant Women and Children Born October 1, 1983, or Later Who Do Not Qualify As Mandatory Categorically Needy
Cases in Intermediate Care, Skilled Nursing Care and DMHDD - WANG(AABD) and All Other Licensed Medical Facilities
Department of Mental Health and Developmental Disabilities (DMHDD) Approved Home and Community Based Residential Settings Under 89 Ill. Adm. Code 140.643
Department of Mental Health and Developmental Disabilities (DMHDD) Approved Home and Community Based Residential Settings
Pregnant Women and Children Born October 1, 1983, or Later Who Do Not Qualify As Mandatory Categorically Needy (MANG(P) Program)
Department of Mental Health and Developmental Disabilities (DMHDD) Licensed Community - Integrated Living Arrangements

SUBPART D: SUPPLEMENTARY MEDICAL INSURANCE

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Section
120.70 Supplementary Medical Insurance Benefits (SMIB) Buy-In Program
120.71 Eligibility for Medicare Cost Sharing as a Qualified Medicare
120.72 Beneficiary (QMB)
120.73 Eligibility for Medical Payment of Medicare Part B Premiums as a
Specified Low-Income Medicare Beneficiary (SLIB)
120.74 Qualified Medicare Beneficiary (QMB) Income Standard
120.75 Specified Low-Income Medicare Beneficiary (SLIB) Income Standard
120.76 Hospital Insurance Benefits (HIB)

SUBPART E: RECIPIENT RESTRICTION PROGRAM

Section
120.80 Recipient Restriction Program

SUBPART F: MIGRANT MEDICAL PROGRAM

Section
120.90 Migrant Medical Program
120.91 Income Standards

SUBPART G: AID TO THE MEDICALLY INDIGENT

Section
120.200 Elimination of Aid to the Medically Indigent
120.201 Client Cooperation (Repealed)
120.202 Citizenship (Repealed)
120.203 Residence (Repealed)
120.204 Age (Repealed)
120.205 Relationship (Repealed)
120.206 Living Arrangement (Repealed)
120.207 Supplemental Payments (Repealed)
120.208 Institutional Status (Repealed)
120.209 Foster Care Program (Repealed)
120.210 Social Security Numbers (Repealed)
120.211 Unearned Income (Repealed)
120.212 Exempt Unearned Income (Repealed)
120.213 Education Benefits (Repealed)
120.214 Unearned Income In-Kind (Repealed)
120.215 Earnmarked Income (Repealed)
120.216 Lump Sum Payments and Income Tax Refunds (Repealed)
120.217 Protected Income (Repealed)
120.218 Earned Income (Repealed)
120.219 Budgeting Earned Income (Repealed)
120.220 Recognized Employment Expenses (Repealed)
120.221 Income From Work/Study/Training Program (Repealed)
120.222 Earned Income From Self-Employment (Repealed)

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120.273 Earned Income From Roomer and Boarder (Repealed)
120.275 Earned Income In-Kind (Repealed)
120.276 Payments from the Illinois Department of Children and Family Services (Repealed)
120.280 Assets (Repealed)
120.281 Exempt Assets (Repealed)
120.282 Asset Disregards (Repealed)
120.283 Deferral of Consideration of Assets (Repealed)
120.284 Spend-down of Assets (AMI) (Repealed)
120.285 Property Transfers (Repealed)
120.290 Persons Who May Be Included in the Assistance Unit (Repealed)
120.295 Payment Levels for AMI (Repealed)

SUBPART H: MEDICAL ASSISTANCE - NO GRANT

Section
120.308 Client Cooperation
120.309 Caretaker Relative
120.310 Citizenship
120.311 Residence
120.312 Age
120.313 Blind
120.314 Disabled
120.315 Relationship
120.316 Living Arrangements
120.317 Supplemental Payments
120.318 Institutional Status
120.319 Assignment of Rights to Medical Support and Collection of Payment
120.320 Cooperation in Establishing Paternity and Obtaining Medical Support
120.321 Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
120.322 Proof of Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
120.323 Suspension of Paternity Establishment and Obtaining Medical Support
120.324 Upon Finding Good Cause
120.325 Health Insurance Premium Payment (HIPP) Program
120.326 Health Insurance Premium Payment (HIPP) Pilot Program
120.327 Foster Care Program
120.328 Social Security Numbers
120.329 Earnmarked Income
120.330 Budgeting Unearned Income
120.331 Exempt Unearned Income
120.332 Education Benefits
120.333 Education Allowance
120.334 Income In-Kind
120.340 Unearned Income In-Kind
120.342 Court Ordered Child Support Payments of Parent/Step-Parent
120.343 Earnmarked Income
120.346 Medicaid Qualifying Trusts

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- 120.347 Treatment of Trusts
- 120.350 Lump Sum Payments and Income Tax Refunds
- 120.355 Protected Income
- 120.360 Earned Income
- 120.361 Budgeting Earned Income
- 120.362 Exempt Earned Income
- 120.363 Earned Income Disregard - MANG(C)
- 120.364 Earned Income Exemption
- 120.366 Exclusion From Earned Income Exemption
- 120.370 Recognized Employment Expenses
- 120.371 Income From Work/Study/Training Programs
- 120.372 Earned Income From Self-Employment
- 120.373 Earned Income From Roomer and Boarder
- 120.375 Earned Income in Kind
- 120.376 Payments from the Illinois Department of Children and Family Services
- 120.377 Provisions for the Prevention of Spousal Impoverishment
- 120.378 Assets
- 120.380 Exempt Assets
- 120.381 Asset Disregard
- 120.382 Deferral of Consideration of Assets
- 120.383 Spend-down of Assets (MANG)
- 120.384 Property Transfers for Applications Filed Prior to October 1, 1989 (Repealed)
- 120.385 Property Transfers Occurring On or Before August 10, 1993
- 120.387 Property Transfers Occurring On or After August 11, 1993
- 120.390 Persons Who May Be Included in the Assistance Unit
- 120.391 Individuals Under Age 18 Who Do Not Qualify For AFDC/AFDC-MANG and Children Born October 1, 1983, or Later (MANG(P) Program)
- 120.392 Pregnant Women Who Would Not Be Eligible For AFDC/AFDC-MANG If The Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy (MANG(P) Program)
- 120.393 Pregnant Women and Children Under Age Eight Years Who Do Not Qualify As Mandatory Categorically Needy Demonstration Project
- 120.395 Payment Levels for MANG (Repealed)
- 120.399 Redetermination of Eligibility

TABLE A Value of a Life Estate and Remainder Interest

TABLE B Life Expectancy

AUTHORITY: Implementing Articles III, IV, V and VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill.

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- Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 21, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 5 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective June 2, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 17574, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 6082; amended at 7 Ill. Reg. 8256, effective July 1, 1983; amended at 7 Ill. Reg. 8264, effective July 5, 1983; amended (by adding Section being codified with no substantive change) at 7 Ill.

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Reg. 14747; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5253, effective April 9, 1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17897; amended at 8 Ill. Reg. 18903, effective September 26, 1984; preemptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective January 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25, 1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985; amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16006, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 12458, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987; amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988; emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867, effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988; amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at 13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective June 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendment at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838, effective November 8, 1989; amended at 13 Ill. Reg. 18872, effective November 17, 1989; amended at 14 Ill. Reg. 760, effective January 1,

DEPARTMENT OF PUBLIC AID

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1990; emergency amendment at 14 Ill. Reg. 1494, effective January 2, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 4233, effective March 5, 1990; emergency amendment at 14 Ill. Reg. 5839, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 6372, effective April 16, 1990; amended at 14 Ill. Reg. 7637, effective May 10, 1990; amended at 14 Ill. Reg. 10396, effective June 20, 1990; amended at 14 Ill. Reg. 13277, effective August 6, 1990; amended at 14 Ill. Reg. 14814, effective September 3, 1990; amended at 14 Ill. Reg. 17004, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 348, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5302, effective April 1, 1991; amended at 15 Ill. Reg. 10101, effective June 24, 1991; amended at 15 Ill. Reg. 11973, effective August 12, 1991; amended at 15 Ill. Reg. 12747, effective August 16, 1991; amended at 15 Ill. Reg. 14105, effective September 11, 1991; amended at 15 Ill. Reg. 14240, effective September 23, 1991; amended at 16 Ill. Reg. 139, effective December 24, 1991; amended at 16 Ill. Reg. 1862, effective January 20, 1992; amended at 16 Ill. Reg. 10034, effective June 15, 1992; amended at 16 Ill. Reg. 11582, effective July 15, 1992; amended at 16 Ill. Reg. 17290, effective November 3, 1992; amended at 17 Ill. Reg. 1102, effective January 15, 1993; amended at 17 Ill. Reg. 6827, effective April 21, 1993; amended at 17 Ill. Reg. 10402, effective June 28, 1993; amended at 18 Ill. Reg. 2051, effective January 21, 1994; amended at 18 Ill. Reg. 5934, effective April 18, 1994; amended at 18 Ill. Reg. 8718, effective June 1, 1994; amended at 19 Ill. Reg. 2905, effective February 27, 1995; emergency amendment at 19 Ill. Reg. 9280, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 11931, effective August 11, 1995; amended at 19 Ill. Reg. 15079, effective October 17, 1995; amended at 20 Ill. Reg. 5068, effective March 20, 1996; amended at 20 Ill. Reg. ~~15993~~ effective ~~DEC 09 1996~~.

SUBPART H: MEDICAL ASSISTANCE - NO GRANT

Section 120.330 Unearned Income

a) All currently available, unearned income which is not specified as exempt shall be considered in the determination of eligibility and the level-of-the-assistance-payment.

b) Unearned income is all income other than that received in the form of salary for services performed as an employee or profits from self-employment.

c) When the amount of unearned income to be considered is determined, the cents are dropped from each payment amount.

d) For payments received weekly, the weekly amount is multiplied by 4.33 to determine the countable monthly income.

e) For payments received bi-weekly, the bi-weekly amount is multiplied by 2.16 to determine the countable monthly income.

(Source: Amended at 20 Ill. Reg. ~~15993~~ effective ~~DEC 09 1996~~)

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

Section 120.360 Earned Income

- a) All currently available income which is not specified as exempt is ~~shall be~~ considered in the determination of eligibility and the level of the assistance payment.
- b) Earned income is remuneration acquired through the receipt of salaries or wages for services performed as an employee or profits from an activity in which the individual is self-employed.

c) AFDC(MANG)

- 1) Earned income received through the Job Training Partnership Act by dependent children who are full-time students or who are part-time students and not employed full-time (i.e., working 100 hours or more per month) is exempt (see 89 Ill. Adm. Code 112.140 for a definition of "full-time student" and "part-time student"). Participants in Job Corps are considered students.

- 2) Earned income received through the Job Training Partnership Act by dependent children who are not students as described in subsection (c)(1) of this Section above is exempt for six months each year.

d) ANBD (MANG)

- 1) Earned income received through the Job Training Partnership Act must be budgeted against the ANBD MANG standard.

- 2) When the amount of earned income to consider is determined, the cents are dropped from each payment amount.

(Source: Amended at 20 Ill. Reg. 15993, effective DEC 09 1996)

Section 120.361 Budgeting Earned Income

- a) Budgeting is the method by which nonexempt non-exempt income is compared to the applicable MANG standard payment level (as contained in Sections 120.20, 120.30 and 120.31). Section 120.379) plus additional income-maintenance needs to determine the amount of the monthly assistance payment to the assistance unit.

- b) For persons who are paid weekly, the payable gross weekly payment is multiplied by 4.33 to determine the countable gross monthly income.

- c) For persons who are paid biweekly, the average gross bi-weekly payment is multiplied by 2.16 to determine the countable gross monthly income.

(Source: Amended at 20 Ill. Reg. 15993, effective DEC 09 1996)

Section 120.362 Exempt Earned Income

- a) MANG (ANBD) (Excluding Long Term Group Care)

- The first \$25.00 \$7-50 of a client's earned or unearned income, other

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

than SSI or contributions from a spouse or other individual residing outside the home, is ~~shall be~~ exempt from consideration in the determination of eligibility. A client is eligible for only one \$25.00 \$7-50 exemption regardless of the type or source of income. Certain additional amounts of earned income shall be exempt:

- 1) For MANG (ANBD(A)(D)), the first \$20.00 of gross earned income and plus one-half of the next \$60.00 \$12 shall be exempt.

2) For MANG(ANBD(B))

- A) The first \$85.00 of the gross earned income and plus one-half of the amount in excess of \$85.00 \$12 shall be exempt.

- B) Amounts of income as may be necessary for fulfillment of a client's plan for achieving self-support for a period not to exceed 12 months ~~are~~ shall be exempt.

c) MANG(C)

Earned income shall be exempt if it is the earned income of an individual receiving assistance as a dependent child who is:

- 1) A full-time student in a school (including vocational and technical) college or university approved by the Illinois Office of Education. Full time is defined as follows:

- A) High School - 25 clock hours per week or enrollment in a secondary education program of training which the school defines as full time attendance.

- B) Vocational or Technical School - 30 clock hours per week when the program involves shop practice; 25 hours per week when the program does not involve shop practice, or

- C) College or University - 12 semester or quarter hours, or

- 2) A part-time student who is not employed 100 hours per month or more shall be exempt from consideration.

(Source: Amended at 20 Ill. Reg. 15993, effective DEC 09 1996)

Section 120.363 Earned Income Disregard - MANG(C)

The first \$90.00 of earned income is disregarded from monthly earned income of each employed person.

(Source: Added at 20 Ill. Reg. 15993, effective DEC 09 1996)

Section 120.364 Earned Income Exemption

- a) For MANG (C), the first \$30.00 of the combined net earned income of each employed person (excluding the earned income of a dependent child (see Sections 120.360 and 120.362 as-exempt-above) plus one-third of the remainder shall be exempt from consideration. The net income is gross income after the deduction of appropriate business expenses

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

and/or employment expense.

- b) After the amount of the earned income exemption is determined, the cents are disclosed before the earned income exemption is deducted from the gross unearned income minus the income disregard.

(Source: Amended at 20 Ill. Reg. **15993**, effective~~DEC 0 9 1996~~)

Section 120.372 Earned Income From Self-Employment

- a) Income realized from self-employment is shall-be considered earned income.
- b) Accurate and complete records shall be kept on all monies received and spent through self-employment. If the individual fails or refuses to maintain complete business records, the assistance unit is shall-be ineligible.
- c) Business expenses must shall be verified. The individual has shall have full responsibility for proof of any business expense. No deduction is shall-be allowed for depreciation, obsolescence and/or similar losses in the operation of the business. Gross income from the business is shall-be turned back into the business only to replace stock actually sold.
- d) The net income is shall-be the gross remaining after the replacement of stock and business expenses have been considered, and the appropriate employment expenses and child care expenses, as specified in Section 113, have been deducted. The earned income exemption, if applicable, is shall-be computed on the net income.
- e) To determine the amount of self-employment income to be considered, the verified income from the previous calendar year is divided into 12 monthly amounts. The income from the previous year is considered unless:

- 1) the person was not self-employed in the previous calendar year;
- 2) the person is no longer self-employed; or
- 3) the person has valid reasons to anticipate that the income expected to be received during the current calendar year will be in a different amount.

(Source: Amended at 20 Ill. Reg. **15993**, effective~~DEC 0 9 1996~~)

Section 120.395 Payment Levels for HANG (Repealed)

The amount-a recipient-unit-is-to-pay-toward-its-medical-expenses-is-the-sum-of that--units--nonexempt--income--and--assets-minus-the-amount-of-the-appropriate medical-assistance-standard:

(Source: Repealed at 20 Ill. Reg. **15993**, effective~~DEC 0 9 1996~~)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Relative Home Placement

- 2) Code Citation: 89 Ill. Adm. Code 335

- 3) Section Numbers: Emergency Action:
335.100 Amend

- 4) Statutory Authority: 20 ILCS 505/5

- 5) Effective Date of Amendments: December 10, 1996

- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not applicable.

- 7) Date Filed in Agency's Principal Office: December 1, 1996

- 8) Reason for Emergency: The Department had planned to issue final licensing decisions on relative family homes which had been approved under 89 Ill. Adm. Code 335, Relative Home Placement, by October 31, 1996. The Department's plan would have allowed the Department to deny licensure to any "approved" relative who had not submitted all required licensing materials by October 31, 1996.

As of November 7, 1996, approximately 335 providers with an "approved" status were caring for 667 related children. The approved status allows the Department of Children and Family Services to claim Federal reimbursement. The Department is converting all approved homes to licensed status. Although the Department has completed the licensing process for several thousand approved homes, 335 homes remain in an approved status and have not completed the licensing process. The reason these remaining homes have not been converted to licensing status are varied. Some providers have failed to cooperate with the Department. Some have cooperated fully, but circumstances beyond the control of DCFS or the provider (such as awaiting the results of a background check) have not allowed DCFS to complete the conversion. The Department has implemented a program to complete the conversion of all remaining homes over the next several weeks. The conversion should be completed soon, but all persons who are adversely affected by a licensing decision must be given the opportunity to appeal. So, for the few providers who appeal an adverse decision and for those whose conversions cannot be completed because of circumstances beyond the control of DCFS or the provider, DCFS will need to continue their approved status past December 31, 1996 to allow DCFS to claim Title IV-E reimbursement for these homes.

- 9) A Complete Description of the Subjects and Issues Involved: The amendments extend the effective date of an automatic repealer clause from December 31, 1996 to December 31, 1997. The Section allows the Department to claim Federal Financial Participation for relatives who were approved

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

under 89 Ill. Adm. Code 335, who are seeking licensure as a foster family home.

- 10) Are there any proposed amendments to this Part pending? No
- 11) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Information and questions regarding these amendments shall be directed to:
 Jacqueline Nottingham, Chief
 Office of Rules and Procedures
 Department of Children and Family Services
 406 East Monroe Street, Station #222
 Springfield, Illinois 62701-1498
 217/524-1983
 TTY: 217/524-3715

The full text of the emergency amendments begins on the next page:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER B: PROGRAM AND TECHNICAL SUPPORT

PART 335

RELATIVE HOME PLACEMENT

SUBPART A: GENERAL PROVISIONS

Section	Purpose
335.100	EMERGENCY
335.102	Definitions (Repealed)

SUBPART B: PLACEMENT

Section	Identification and Selection of Relative Placements (Repealed)
335.200	Placement Pre-conditions (Repealed)
335.202	Continuation of Placement (Repealed)
335.204	Required Notices and Information (Repealed)
335.206	Payment Provisions (Repealed)
335.208	

SUBPART C: APPROVAL STANDARDS FOR RELATIVE FAMILY HOMES

Section

335.300	Provisions Pertaining To Approval (Repealed)
335.302	Safety Requirements for the Relative Family Home (Repealed)
335.304	Requirements For Sleeping Arrangements (Repealed)
335.306	Nutrition and Meals (Repealed)
335.308	Business and Employment of Relative Foster Parents (Repealed)
335.310	Qualifications of Relative Family Home (Repealed)
335.312	Background Inquiry (Repealed)
335.314	Health of Relative Family (Repealed)
335.316	Number of Children Served (Repealed)
335.318	Meeting Basic Needs of Related Children (Repealed)
335.320	Health Care of Related Children (Repealed)
335.322	Religion (Repealed)
335.324	Education (Repealed)
335.326	Discipline of Related Children (Repealed)
335.328	Emergency Care of Related Children (Repealed)
335.330	Release of Children (Repealed)
335.332	Confidentiality of Information (Repealed)
335.334	Required Written Consents (Repealed)
335.336	Records To Be Maintained (Repealed)
335.338	Cooperation with the Supervising Agency and the Department (Repealed)
335.340	Severability of This Part (Repealed)
APPENDIX A	Crimes Identified in Section 4.2 of the Child Care Act of 1969 (Repealed)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

AUTHORITY: Implementing and authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5].

SOURCE: Adopted at 10 Ill. Reg. 4513, effective April 1, 1986; amended at 16 Ill. Reg. 7633, effective April 30, 1992; amended at 17 Ill. Reg. 13420, effective July 31, 1993; amended at 18 Ill. Reg. 7744, effective September 1, 1994; emergency amendment at 18 Ill. Reg. 14436, effective August 31, 1994, for a maximum of 150 days; emergency expired January 30, 1995; amended at 19 Ill. Reg. 6204, effective April 12, 1995; emergency amendment at 19 Ill. Reg. 10201, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10502, effective July 1, 1995; amended at 19 Ill. Reg. 13204, effective September 1, 1995; emergency amendment at 20 Ill. Reg. 920, effective December 29, 1995, for a maximum of 150 days; emergency expired May 26, 1996; amended at 20 Ill. Reg. 7795, effective May 29, 1996; emergency amendment at 20 Ill. Reg. 16006, effective December 10, 1996, for a maximum of 150 days.

SUBPART A: GENERAL PROVISIONS

Section 335.100 Purpose

EMERGENCY

- a) Relative caregivers who, as of July 1, 1995, were approved pursuant to approved relative placement rules previously promulgated by the Department of Children and Family Services at 89 Ill. Adm. Code 335 and had submitted an application for licensure as a foster family home continue to be approved and may continue to receive foster care payments only until the Department determines that they may be licensed as a foster family home or that their application for licensure is denied. [20 ILCS 505/5(u-5)]
 - b) This Section is automatically repealed after all administrative appeals on this matter have been exhausted, but in no event later than December 31, 1997. December 31, 1996.
- Agency Note:** The United States District Court for the Northern District of Illinois has ruled in the case of Youakim vs. McDonald that approved relative caregivers who submitted applications for licensure as a foster family home by July 1, 1995 must continue to receive the full foster care rate until the Department determines whether their application for licensure is approved or denied. The Court ruled that the establishment of a deadline violated the Plaintiff's due process rights was unconstitutional. Thus the deadline of September 30, 1995 has been deleted.

(Source: Emergency amendment at 20 Ill. Reg. 16006, effective December 10, 1996, for a maximum of 150 days)

DEPARTMENT OF REVENUE

NOTICE OF WITHDRAWAL OF PROPOSED RULES

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Numbers: Proposed Action:
100.9710 New Section
- 4) Date of Notice of Proposed Rule Published in the Illinois Register:
July 19, 1996, 20 Ill. Reg. 9488
- 5) Reason for the withdrawal: The Department received a number of comments on the proposed rulemaking. As a result of its evaluation of the comments, the Department concluded that it is appropriate to withdraw the rulemaking for further consideration.

DEPARTMENT OF LABOR

NOTICE OF PUBLIC INFORMATION

LIST OF CONTRACTORS PROHIBITED FROM AN AWARD
OF A CONTRACTOR OR A SUBCONTRACT
FOR PUBLIC WORKS PROJECTS

Pursuant to Section 11a of the Prevailing Wage Act, 820 ILCS 130/0.01-12 (1994), the Director of the Department of Labor gives notice that the following contractors have been found to have disregarded their obligations to employees under the Prevailing Wage Act on two (2) separate occasions and are prohibited from being awarded any contract or subcontract for a public works project for:

- 1) a two (2) year period ending October 31, 1998:

G.O.B. Builders, Inc.
4425 North Easton Avenue
Chicago, IL 60630

- 2) a two (2) year period beginning October 28, 1996, and ending on October 27, 1998:

Mr. Rick Schlosser
Rick's Concrete
409 Wirt Street
Henry, IL 61537

- 3) a two (2) year period ending on October 3, 1998:

Huffman Farm Supply, Inc.
702 Winier Avenue
P.O. Box 463
Minier, IL 61759

Mr. John A. Manning, President
Ms. Peggy A. Haning, Secretary

- 4) a two (2) year period ending on August 25, 1997:

Schwante, Schwante & Associates
P.O. Box 1204
LaSalle, IL 61301

- 5) the period of June 1, 1996 to May 31, 1997:

AKSA Builders, Inc.
P.O. Box 274
Effingham, IL 62401

- 6) a two (2) year period ending on May 1, 1997:

DEPARTMENT OF LABOR

NOTICE OF PUBLIC INFORMATION

LIST OF CONTRACTORS PROHIBITED FROM AN AWARD
OF A CONTRACTOR OR A SUBCONTRACT
FOR PUBLIC WORKS PROJECTS

Allendorfer Roofing Company
4617-23 North Pulaski Road
Chicago, IL 60637

Copies of the Prevailing Wage Act are available at the:

Illinois Department of Labor
Conciliation and Mediation Division
One West Old State Capital Plaza, Room 300
Springfield, IL 62701-1217

ILLINOIS LIQUOR CONTROL COMMISSION

REGULATORY AGENDA JANUARY 1997

- a) Part(s) Heading and Code Citation(s): The Illinois Liquor Control Commission, 11 Ill. Adm. Code 100

1) Rulemaking:

- A) Description: Section 100.10(c) Add a new definition called tasting to allow dissemination of small quantities of alcoholic product at a licensed premise by a licensee or registered tasting representative for educational purposes.

Section 100.10(s) Add a new definition of service bar.

Section 100.40 Require that any non-licensed person wishing to conduct tastings as newly defined in 100.10(c) be registered with the State Liquor Commission.

Section 100.50 Update Federal citations.

Section 100.70(b)(9) Allow containers to have labels or statements showing alcoholic content in accordance with the U.S. Supreme Court decision in *Rubin v. Coors Brewing Co.*

Section 100.170(a) Amend to waive the ten foot, tap handle visibility requirement for service bars as newly defined in 100.10(s).

Section 100.280(c) Amend to exempt tastings, as newly defined in 100.10(f), from giving away of alcoholic liquor.

Section 100.330 Amend to eliminate "or entity having more than a 5% interest in a retail licensee" as redundant; any entity with a 5% or more interest in a retail licensee must be disclosed on a retail license application.

Section 100.340 Amend to update new Springfield office address.

Section 100.350 Amend to update new Springfield office address.

- B) Statutory Authority: The Liquor Control Act of 1934 [235 ILCS 5/3-12(2)].

- C) Scheduled meeting/hearing dates: Hearings will be scheduled if requested; comments can be directed to Arabel Alva Rosales, Executive Director.

- D) Date agency anticipates First Notice: January 1997 or shortly thereafter.

ILLINOIS LIQUOR CONTROL COMMISSION

REGULATORY AGENDA JANUARY 1997

- E) Affect on small businesses, small municipalities or not for profit corporations: A few small businesses which purpose is to provide employees for tastings to Illinois licensees will now be required to register and pay an administrative fee of \$100.00.

F) Agency contact person for information:

Arabel Alva Rosales
Executive Director
Illinois Liquor Control Commission
100 W. Randolph St. #5-300
Chicago, IL 60601
(312)814-3930

- G) Related rulemakings and other pertinent information: None

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of December 3, 1996 through December 9, 1996 and have been scheduled for review by the Committee at its December 17, 1996 or January 21, 1997 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
1/16/97	Department of Central Management Services, Pay Plan (80 Ill Adm Code 310)	10/11/96 20 111 Reg 13102	12/17/96
1/16/97	Illinois Commerce Commission, Guidelines for Right-of-Way Acquisitions (83 Ill Adm Code 300)	6/21/96 20 111 Reg 8109	12/17/96
1/17/97	Department of Revenue, Income Tax (86 Ill Adm Code 100)	9/20/96 20 111 Reg 12575	12/17/96
1/22/97	Department of Employment Security, Determination of Unemployment Contributions (56 Ill Adm Code 2770)	10/25/96 20 111 Reg 13685	12/17/96
1/22/97	Department of Employment Security, Disqualifying Income and Reduced Benefits (56 Ill Adm Code 2920)	10/25/96 20 111 Reg 13692	12/17/96
1/22/97	Department of Public Aid, Aid to Families with Dependent Children (89 Ill Adm Code 112)	10/11/96 20 111 Reg 13138	1/21/97

NOTE: Rulemakings posted in last week's Register to JCAR's January meeting have been moved to the December agenda, and the January meeting date has been changed from 1/14/97 to 1/21/97.

Rules acted upon during the quarter of October 1 through December 31, 1996 are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 5401 published in Issue 40 will be listed as 50-1401-40. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jurnal@ccgate.sos.state.il.us (Internet address).

PROPOSED	77-677-41	20-525-51	86-700-45
4-1100-40	77-682-41	23-1-48	86-800-40
8-260-45	77-830-46	23-375-48	86-900-46
11-314-48	77-845-41	23-650-48	89-104-46
11-509-48	77-2090-45	23-2721-47	89-110-46
11-603-48	80-310-41,47	23-2736-47	89-112-46,51
11-808-48	80-1650-45	23-3060-40	89-120-51
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26-216-44	89-141-41	41-100-40	92-391-48
32-332-46	89-160-43	44-900-48	92-392-48
35-211-44	89-165-41	44-950-48	92-393-48
35-370-40	89-170-43	44-5000-47	92-395-48
35-506-51	89-230-46	50-2001-45	92-396-48
35-601-51	89-240-42	56-610-48	92-397-48
35-602-51	89-270-46	59-102-42	92-600-48
35-603-51	89-335-51	62-1800-50	92-1001-50
35-607-51	89-357-49	71-1-48	EMERGENCY
35-615-51	89-402-51	71-10-48	23-3060-47
35-617-51	89-562-48	71-20-48	26-216-44
35-732-43	89-676-43	71-40-28	35-505-46
35-742-49	89-679-43	71-100-48	38-190-40
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MAIL TO:

GEORGE H. RYAN
SECRETARY OF STATE
INDEX DEPARTMENT
111 E. MONROE
SPRINGFIELD, IL 62756

